

**THE NATURAL RESOURCES AGENCY OF CALIFORNIA  
Department of Fish and Game  
1416 Ninth Street  
Sacramento, California 95814**

**MARINE REGION - INFORMATION LEAFLET<sup>1</sup> REGULATIONS GOVERNING  
MARINE AQUACULTURE**

**Registration Requirements**

All facilities used for the controlled growing and harvesting of aquatic plants and animals in the State, whether on public or private lands, must be registered annually. All forms of marine plants, fish and shellfish that are approved by the Fish and Game Commission may be cultivated. Registration forms are issued by the Department of Fish and Game under provisions of the Fish and Game Code and regulations of the Fish and Game Commission. Pertinent regulations are cited in this leaflet.

Fees are indexed and will change each year. You can find the current fees at the following California Fish and Game, License and Revenue Branch web site [www.dfg.ca.gov/licensing/statistics/statistics.html](http://www.dfg.ca.gov/licensing/statistics/statistics.html) under the Special Licenses and Permits Heading and on the application.

**How to Register Aquaculture Facilities**

A person desiring to propagate and rear marine life should make application on Form FG 750 attached to the back of this leaflet. Additional copies may be obtained from the Department. Common and scientific names are to be used when listing species to be cultivated (Table 1). Species not listed on Table 1 require Fish and Game Commission and Department of Fish and Game approval before they are acceptable for cultivation.

An application, together with the required fee, should be transmitted to the Department of Fish and Game, License and Revenue. Possession of a valid aquaculture registration is a condition of all aquaculture leases.

California Department of Fish and Game  
License and Revenue Branch  
1740 North Market Blvd.  
Sacramento, California 95834

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<sup>1</sup> Prepared and revised by Emil J. Smith, Jr., through February 1997; revised by Fred Wendell July 1999; revised by Tom Moore September 2005 and March 2007; revised by Kirsten Ramey October 2010.

Table 1. Common and Scientific Names for Approved Plants and Animals That May be Propagated by Registered Aquaculturists<sup>2</sup>

<b>Common Name</b>	<b>Scientific Name</b>
Nori	<i>Porphyra tenerima</i>
Agar	<i>Gelidium</i> sp.
Prawn, Japanese	<i>Penaeus japonicas</i>
Prawn, Spot	<i>Pandalus platyceros</i>
Shrimp, White	<i>Penaeus vannamei</i>
Lobster, Eastern	<i>Homarus americanus</i>
Lobster, Spiny	<i>Panulirus interruptus</i>
Crab, Dungeness	<i>Cancer magister</i>
Mussel, Blue	<i>Mytilus galloprovincialis</i>
Mussel, California Sea	<i>Mytilus californianus</i>
Scallop, Japanese Bay	<i>Patinopectin yessoensis</i>
Scallop, Rock	<i>Hinnites giganteus</i>
Scallop, Speckled	<i>Argopectin aequisulcatus</i>
Oyster, Eastern	<i>Crassostrea virginica</i>
Oyster, European Flat	<i>Ostrea edulis</i>
Oyster, Kumomoto	<i>Crassostrea sikamea</i>
Oyster, Native	<i>Ostrea lurida</i>
Oyster, Pacific	<i>Crassostrea gigas</i>
Oyster, Portuguese	<i>Crassostrea angulata</i>
Oyster, Suminoe	<i>Crassostrea rivularis</i>
Chione, Mexican	<i>Chione cortezi</i>
Clam, Common Littleneck	<i>Protothaca staminea</i>
Clam, Geoduck	<i>Panopea generosa</i>
Clam, Japanese Red	<i>Anadara broughtoni</i>
Clam, Macoma	<i>Macoma nasuta</i>
Clam, Manila	<i>Venerupis philippinarum</i>
Clam, Northern Quahog	<i>Mercenaria mercenaria</i> –exotic
Clam, Pismo	<i>Tivela stultorum</i>
Clam, Softshell	<i>Mya arenaria</i>
Abalone, Giant	<i>Haliotis gigantea</i>
Abalone, Green	<i>Haliotis fulgens</i>
Abalone, Japanese	<i>Haliotis discus hannai</i>
Abalone, Pink	<i>Haliotis corrugata</i>
Abalone, Red	<i>Haliotis rufescens</i>

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<sup>2</sup> Only the listed common names are acceptable. If you plan to rear marine species other than those listed in this leaflet, you should be aware that laws and regulations (included in this leaflet) prohibit the importation, transportation and possession of certain marine species. The commercial rearing or stocking of marine species considered exotic to California and not listed above require the permission of the Fish and Game Commission and the Department of Fish and Game.

Abalone, White  
Abalone, Pinto  
Limpet, Keyhole  
Urchin, Sea Red  
Seabass, Giant  
Seabass, White  
Bass, Kelp  
Bass, Spotted Sand  
Yellowtail  
Corvina, Orangemouth  
Mullet, Striped  
Halibut, California  
Halibut, Pacific  
Sole, Fantail  
Drum, Red  
Cabezon  
Ocean Whitefish  
Lingcod  
California Corbina

*Haliotis sorenseni*  
*Haliotis kamschatkana*  
*Megathura crenulata*  
*Strongylocentrotus franciscanus*  
*Stereolepis gigas*  
*Atractoscion nobilis*  
*Paralabrax clathratus*  
*Paralabrax maculatofasciatus*  
*Seriola lalandei*  
*Cynoscion xanthulus*  
*Mugil cephalus*  
*Paralichthys californicus*  
*Hippoglossus stenolepis*  
*Xystreus liolepis*  
*Sciaenops ocellatus*  
*Scorpaenichthys marmoratus*  
*Caulolatilus princeps*  
*Ophiodon elongatus*  
*Menticirrhus undulatus*

## **GENERAL INFORMATION FOR APPLICANTS**

### **Inspection of Marine Aquaculture Facilities**

Before a marine aquaculture facility is first registered, the Department may require an inspection of the culture area. If required, the Marine Region's Aquaculture Coordinator will make an appointment with you.

### **Sources of Fish and Shellfish**

Marine fish or shellfish stock for cultivation or breeding purposes may be obtained from licensed commercial fishermen, the Department of Fish and Game, registered aquaculturists or by the registered aquaculturist under the provisions of Section 15301(b) of the Fish and Game Code and Section 243, Title 14, California Code of Regulations. For information regarding sources of breeding stock, please contact the California Department of Fish and Game, Marine Region, 619 Second Street, Eureka, California 95501.

### **Selected Marine Aquaculture References**

To provide assistance to marine aquaculturists in selecting species of marine fish and shellfish suitable for cultivation in waters of the State, a selected list of marine aquaculture references is available upon request from the Marine Region office in Eureka listed above.

## **Lease of State-Owned Tidelands**

The use of state-owned tidelands for aquaculture purposes is regulated by the Fish and Game Commission under authority delegated by the Fish and Game Code. A person desiring to lease state tidelands should make application to the Commission on Form "A" attached to the back of this leaflet. The lease form contains instructions for completion of the application. Additional copies may be obtained from the Department.

## **Private Lands**

Persons operating on private tidelands (e.g., tidelands owned in fee; tidelands granted to municipalities, harbor and recreation districts, and port districts) or in other waters contiguous to waters of the State are subject to the regulations contained in Division 12 of the Fish and Game Code. Persons conducting aquaculture operations on granted tidelands are not required to have aquaculture agreements or leases with the Fish and Game Commission if the granted entity has elected under their authority to manage the natural resources within the tideland grant area. However, persons operating on these granted lands are still subject to all sections of the Fish and Game Code and Commission regulations pertaining to aquaculture except those specifically related to State leases. Persons desiring to establish an aquaculture area on private water bottoms contiguous to state water bottoms shall apply to the Fish and Game Commission for an "Aquaculture Agreement" on Form "A" attached to the back of this leaflet.

## **Sale of Marine Fish and Shellfish**

Marine fish and shellfish cultivated under the provisions of an aquaculture registration may be sold irrespective of seasons, bag limits, or angling license provisions. The laws and regulations governing the sale of aquaculture products are cited in Fish and Game Code Section 15005 and in Section 238, Title 14, California Code of Regulations.

## **Importation of Live Plant and Animals into California**

Written permission is required to import live fish, shellfish, and aquatic plants into this State per Fish and Game Code Section 15600. For specific instructions regarding shellfish, please refer to Section 236.1, Title 14, California Code of Regulations. If you have additional questions relating to marine aquaculture activities or the importation of fish or aquatic plants, please contact the Marine Aquaculture Coordinator or the Marine Region Headquarters in Monterey.

## **Aquaculture Sanitary Requirements**

Marine fish and shellfish cultivated under the provisions of an aquaculture registration may only be grown, processed, and marketed for human consumption under the laws established by Sections 28500-28519.5 of the State Health and Safety Code. The provisions of the Health and Safety Code are enforced by the California Department of Health Services (DHS).

All shellfish harvested commercially for human consumption in California must come from a designated growing area which meets certain standards of cleanliness. These standards set maximum allowable levels for bacteria in the water, as well as for other contaminants such as pesticides, toxic organic compounds, and heavy metals. Within the DHS, the Environmental Management Branch is responsible for approving shellfish growing-water quality.

During the evaluation of a shellfish-growing area, prior to issuance or denial of a growing water certificate, considerable weight is placed on bacterial data reflecting "total" and "fecal" coliform levels. The watershed or source of water is considered, and an attempt is made to determine the hazards associated with all actual and potential sources of pollution which might impinge on the growing area. This includes such things as sewage treatment plants, areas of urban run-off, industrial plants, and agricultural operations.

The DHS', Food and Drug Branch is responsible for approving facilities, equipment, and procedures used for handling, shucking, storing, packaging and shipping of fish and shellfish after harvest. That branch also enforces meat quality standards, and sets requirements for proper packaging and labeling of all fish and shellfish moved in commerce.

To facilitate consideration of your aquaculture proposal by DHS, please include a description of your plans and map showing the locations of your proposed harvesting areas on your permit application forms. Also, include a description of the type and location of any facilities to be used for handling, packaging, or storing the aquaculture products within the State.

To obtain applications forms and information concerning the procedures followed by the California Department of Health Services in permitting commercial aquaculture operations, please contact:

**For Growing Area Certification**

Mr. Gregg Langlois  
Department of Health Services  
Environmental Management Branch  
850 Marina Bay Parkway, Bldg. G165  
Richmond, CA 94804  
(510) 412-4635  
glanglois@dhs.ca.gov

**For Handling and Marketing Certification**

Mr. Hugo Cornejo  
Food and Drug Branch - MS-7602  
1500 Capitol Avenue  
PO Box 997413  
Sacramento, California 95899-7413  
(916) 650-6704  
(916) 440-5138 fax

# CALIFORNIA GOVERNMENT CODE SECTIONS REGULATING THE PROPAGATION AND HARVESTING OF MARINE LIFE AND THE PURIFICATION OF MOLLUSKS

Note: Section headings are those used by LawTech editorial staff- Title, Division, Part, Chapter, and Article headings are included as enacted.

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## **FISH AND GAME CODE**

### **DIVISION 0.5 GENERAL PROVISIONS AND DEFINITIONS**

#### **CHAPTER 1. GENERAL DEFINITIONS**

##### **14. Anadromous Fish**

"Anadromous fish" means fish which spawn in fresh water and spend a portion of their lives in the ocean.

##### **17. Aquaculture**

"Aquaculture" means that form of agriculture devoted to the propagation, cultivation, maintenance, and harvesting of aquatic plants and animals in marine, brackish, and fresh water. "Aquaculture" does not include species of ornamental marine or freshwater plants and animals not utilized for human consumption or bait purposes that are maintained in closed systems for personal, pet industry, or hobby purposes, however, these species continue to be regulated under Chapter 2 (commencing with Section 2116) of Division 3.

##### **61. Ocean Ranching**

"Ocean ranching" means aquaculture where juvenile anadromous fish are reared and released into state waters to grow and return to an aquaculture facility to be harvested commercially.

### **DIVISION 2. DEPARTMENT OF FISH AND GAME**

#### **CHAPTER 7. CONSERVATION OF AQUATIC RESOURCES**

##### **1700. Policy – To Encourage Conservation, Etc. of Living Resources**

It is hereby declared to be the policy of the state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the state for the benefit of all the citizens of the state and to promote the development of local fisheries and distant-water fisheries based in California in harmony with international law respecting fishing and the conservation of the living resources of the oceans and other waters under the jurisdiction and influence of the state. This policy shall include all of the following objectives:

- (a) The maintenance of sufficient populations of all species of aquatic organisms to insure their continued existence.
- (b) The recognition of the importance of the aesthetic, educational, scientific, and nonextractive recreational uses of the living resources of the California Current.
- (c) The maintenance of a sufficient resource to support a reasonable sport use, where a species is the object of sport fishing, taking into consideration the necessity of regulating individual sport fishery bag limits to the quantity that is sufficient to provide a satisfying sport.
- (d) The growth of local commercial fisheries, consistent with aesthetic, educational, scientific, and recreational uses of such living resources, the utilization of unused resources, taking into consideration the necessity of regulating the catch within the limits of maximum sustainable yields, and the development of distant-water and overseas fishery enterprises.
- (e) The management, on a basis of adequate scientific information promptly promulgated for public scrutiny, of the fisheries under the state's jurisdiction, and the participation in the management of other fisheries in which California fishermen are engaged, with the objective of maximizing the sustained harvest.
- (f) The development of commercial aquaculture.

## **DIVISION 3. FISH AND GAME GENERALLY**

### **CHAPTER 3. IMPORTATION AND TRANSPORTATION OF LIVE PLANTS AND ANIMALS**

#### **Article 3. Aquatic Plants and Animals**

##### **2270. Import From Infected or Diseased Area Prohibited**

It is unlawful for any person to receive, bring, or cause to be brought into this state, for the purpose of propagation, any fish, reptile, amphibian, or aquatic plant from any place wherein any infected, diseased, or parasitized fish, reptile, amphibian, or aquatic plants are known to exist.

##### **2270.5. Import From Infected or Diseased Area For Approved Aquaculture Purposes**

Section 2270 does not apply to the importation of live aquatic plants or animals for aquaculture purposes by a registered aquaculturist if the importation has been approved by the department pursuant to Section 15600.

##### **2271. Written Approval and Exceptions for Importation**

(a) No live aquatic plant or animal may be imported into this state without the prior written approval of the department pursuant to regulations adopted by the commission. A written application for the importation, submitted in conformance with the procedural requirements established by the commission, is deemed approved where it has not been denied within 60 days.

(b) This section does not apply to the following plants or animals unless the plants or animals are or may be placed in waters of the state:

(1) Mollusks.

(2) Crustaceans.

(3) Ornamental marine or freshwater plants and animals that are not utilized for human consumption or bait purposes and are maintained in closed systems for personal, pet industry, or hobby purposes.

(c) The section does not apply to any live aquatic plant or animal imported by a registered aquaculturist.

##### **2272. Package Tag Requirements**

Each package containing any live aquatic plant or animal shall bear, in a conspicuous place, a tag on which shall be stated the name and address of the consignor, the name and address of the consignee, and the exact contents of the package.

## **DIVISION 6. FISH**

### **PART 1. GENERALLY**

#### **CHAPTER 1. MISCELLANEOUS**

##### **5503. Take Fish Solely to Remove Eggs Prohibited; Exception**

It is unlawful to take any fish for the sole purpose of removing its eggs except for the purpose of developing a brood stock for aquaculture purposes under Division 12 (commencing with Section 15000) pursuant to regulations promulgated by the Fish and Game Commission.

The commission shall also determine ownership and regulate distribution of progeny taken from wild brood stock, other than those obtained pursuant to Section 15300.

##### **5521. Moratorium on Taking, Possessing or Landing Abalone; Areas Affected**

A moratorium is imposed on the taking, possessing, or landing of abalone (genus *Haliotis*) for commercial or recreational purposes in ocean waters of the state south of a line drawn due west magnetic from the center of the mouth of the San Francisco Bay, including all islands offshore the mainland of California, including, but not limited to, the Farallon Islands and the Southern

California Channel Islands. It is unlawful to take, possess, or land abalone for commercial or recreational purposes in those ocean waters while the moratorium is in effect.

**5521.5. Unlawful to Take Abalone for Commercial Purposes; Districts Affected**

(a) In addition to the moratorium imposed by Section 5521, and notwithstanding any other provision of law, it is unlawful to take abalone for commercial purposes in District 6, 7, 16, 17, or 19A, in District 10 north of Point Lobos, or in District 20 between Southeast Rock and the extreme westerly end of Santa Catalina Island.

(b) For a person who is required to obtain a license pursuant to Section 7145, the possession of more than 12 individual abalone or abalone in excess of the annual bag limit is prima facie evidence that the person possesses the abalone for commercial purposes.

**5521.6. Registered Aquaculturist May Collect Abalone for Broodstock**

Notwithstanding Sections 5521 and 5521.5, a registered aquaculturist may collect abalone for broodstock, in accordance with subdivision (b) of Section 15301.

**CHAPTER 2. POLLUTION**

**Article 2. Shellfish Area Contamination**

**5669. Shellfish**

For purposes of this chapter, "shellfish" means any bivalve mollusk

**5670. Take Shellfish from Contaminated Areas**

It is unlawful to take shellfish used or intended to be used for human consumption from any area from which it shall be determined, as provided in this article, that the taking of shellfish does or may constitute a menace to the lives or health of human beings.

**5671. Contamination Studies by Department of Health Services**

The State Department of Health Services may:

- (a) Examine any area from which shellfish may be taken.
- (b) Determine whether the area is subject to sewage contamination.
- (c) Determine whether the taking of shellfish from the area does or may constitute a menace to the lives or health of human beings.

**5672. Posting of Contamination Notices, etc.**

Upon the determination by the State Department of Health Services that the area is or may be subject to sewage contamination, and that the taking of shellfish from it does or may constitute a menace to the lives or health of human beings, it shall ascertain as accurately as it can the bounds of the contamination, and shall post notices on or in the area describing its bounds and prohibiting the taking of shellfish therefrom.

The taking of shellfish from the area is unlawful after the completion of the publication of the notices as prescribed in this article.

**5673. Publication of Posted Notices**

The fact of posting the notices shall be published once a week for four successive weeks in some newspaper of general circulation published in the county in which the contaminated area is situated, if there is such a newspaper, and if there is none, then in such a newspaper published in an adjoining county.

**5674. Enforcement Requirements and Authorizations**

The State Department of Health Services shall enforce the provisions of this article, and for that purpose the inspectors and employees of that agency may enter at all times upon public or private property upon which shellfish may be located.

**5675. Certification of Water Quality – Time Period**

If examinations are conducted pursuant to this article for purposes of certifying the quality of shellfish-growing waters, certification of water quality shall be commenced within 30 days, and completed within three months of the filing of an application by an aquaculturist.

**Article 2.5. Purification of Mollusks****5700. Move Relocate for Purification; Approval for Human Consumption**

Notwithstanding Sections 5670, 5672, 8341, and 9050, native and nonnative mollusks may be taken in Districts 12 and 13 and moved to other areas to be purified for human consumption under such rules and regulations as shall be established by the commission. Such regulations may include, but are not limited to, bag limits, methods of harvest, and provisions for public use. Mollusks taken under this section shall not be used for human consumption unless such use is approved by the State Department of Health Services.

**5701. Surveys for Purposes of Harvesting and Moving Mollusks**

The State Department of Health Services may make sanitary surveys of mollusk growing areas or may use sanitary surveys of mollusk-growing areas made by qualified state or county agencies, and based on such information may classify such areas for purposes of harvesting and moving mollusks which are to be purified for human consumption in accordance with Section 5700. The State Department of Health Services shall adopt such rules and regulations as are necessary to implement this section.

**5701.5. Certification of Water Quality – Time Period**

If examinations are conducted by the State Department of Health Services pursuant to this article for purposes of certifying the quality of shellfish-growing waters, certification of water quality shall be commenced within 30 days and completed within six months of the filing of an application by an aquaculturist.

**5702. Royalties for Moving Mollusks for Purification**

Any person who moves any native mollusks taken under regulations of the commission from Districts 12 and 13 for purposes of purification for human consumption shall pay a royalty, as the commission may prescribe, of not less than two cents (\$0.02) per pound of mollusks so taken.

**CHAPTER 5. FISH PLANTING AND PROPAGATION****Article 1. General Provisions****6400. Plant or Place Fish, etc. into Waters; Unlawful Without Inspection**

It is unlawful to place, plant, or cause to be placed or planted, in any of the waters of this State, any live fish, any fresh or salt water animal, or any aquatic plant, whether taken without or within the State, without first submitting it for inspection to, and securing the written permission of, the department.

**6403. Application of Chapter**

This chapter does not apply to activities governed by Division 12 (commencing with Section 15000).

**CHAPTER 6. KELP AND OTHER AQUATIC PLANTS****Article 1. General Provisions****6650. License for Harvesting Kelp and other Aquatic Plants**

Every person engaged in harvesting kelp or other aquatic plants for profit in the waters of this State shall have a license for that purpose.

**6651. Harvesting License Fee; Term; Where not Applicable**

(a) A license granting the privilege to harvest kelp or other aquatic plants shall be issued upon application and the payment of a fee of one hundred dollars (\$100) to the department. The license shall be valid from January 1 to December 31, inclusive, or, if issued after the beginning of that term, for the remainder thereof.

(b) This chapter does not apply to aquatic plants grown on private land or on state water bottoms leased pursuant to Division 12 (commencing with Section 15000).

#### **6652. Determining Weight of Kelp; Rendering a Statement**

Every person engaged in harvesting kelp shall determine the weight by any method, including the displacement method, approved by the department of all wet kelp immediately after it is delivered to the licensee's place of business or elsewhere, and the weight shall be entered in a book to be kept by the licensee. The book shall be open at all times to the inspection of the department.

Every person engaged in harvesting kelp shall, on or before 10 days after each month of the term of the license, render a statement of the weight of all wet kelp harvested during the preceding month.

#### **6653. Regulations to Insure Proper Harvesting**

The commission may make such regulations as may be necessary to insure the proper harvesting of kelp and other aquatic plants.

#### **6654. Closure of Kelp Harvesting to Protect Beds or Supply of Fish Food**

If, at any time, the commission finds that the harvesting of kelp will tend to destroy or impair any kelp bed or beds, or parts thereof, or tend to impair or destroy the supply of any food for fish, the department shall serve on every person licensed to harvest kelp a written notice that the kelp bed or beds, or parts thereof, shall be closed to the harvesting of kelp for a period not to exceed one year.

#### **6655. Hearing to Contest Closure**

Within 10 days after the service of such a notice, the person upon whom notice is served may demand a hearing upon the necessity for the closing of the kelp bed or beds, or parts thereof. Upon such demand for a hearing, the commission shall fix a time and place for the taking of evidence upon the necessity for the closing, which time shall be not less than 10 days nor more than 30 days from the date of such demand. The department shall serve written notice of the time and place of the hearing upon the person demanding the hearing, at least 10 days before the day set for the hearing. If no demand is made for a hearing within the time prescribed the kelp bed or beds, or parts thereof, shall remain closed to the harvesting of kelp for the time mentioned in the order.

#### **6656. Revocation or Prohibition of Reissuance of License**

The commission may revoke and prohibit reissuance for a period of not more than one year, the license of:

(a) Any person who harvests any kelp from a bed which is closed, between the time of service of notice upon him or her of the closing of the bed and the decision of the commission upon a hearing as to the necessity for the closing.

(b) Any person who violates any law or regulation of the commission relating to kelp.

The proceedings shall be conducted at one of the commission's regularly scheduled meetings.

### **Article 3. Exclusive Leases**

#### **6700. Exclusive Kelp Harvesting Leases**

The commission may lease to any person the exclusive privilege to harvest kelp in any designated kelp bed, or part thereof, if the commission determines that the lease is in the public interest. The commission shall describe the kelp beds of the state and adopt regulations for the leasing of the beds.



**6701. Application for Exclusive Privileges**

Persons wishing to lease the exclusive privilege to harvest kelp shall submit a written application to the commission. An application shall include all of the following, and any other information the commission may prescribe:

- (a) The number of the kelp bed or beds to be leased.
- (b) The designated number of square miles in each bed.

**6701.5. Deposit Amount**

A deposit of not less than forty dollars (\$40) for each square mile, or fraction thereof, of the total area of the kelp bed or beds which are designated in the application shall be submitted with the application. The deposit shall be refunded to the person making the application unless a lease is executed.

**6702. Public Notices**

(a) If the commission finds that the kelp beds included in the application are available for lease and that the lease would be in the public interest, the commission shall publish a notice that the area is being considered for leasing.

(b) The commission shall have legal notices published in a newspaper of general circulation in each county where the kelp bed, or any part thereof, is located, describing the area to be leased and the type of operation to be conducted. Except as provided in this subdivision, the publication shall be made pursuant to Section 6066 of the Government Code.

(c) If the commission receives more than one application for the lease of a kelp bed or beds, it shall advertise for bids on the area being considered for leasing. The commission shall award the lease of that area to the highest qualified bidder.

**6703. Term of Leases and Size of Areas**

The initial term of a lease for the exclusive privilege of harvesting kelp shall not exceed 20 years. No lessee shall have an exclusive lease, excluding subleases, to an area in excess of 25 square miles or 50 percent of the total area of the kelp resource as shown on the maps of the resource prepared by the commission, whichever is greater.

**6704. Kelp Bed Lease Renewal; Duration of Term**

(a) Each kelp bed lease entered into or renewed, on and after January 1, 1985, shall specify a period prior to expiration when renewal of the lease may be requested by the lessee. If the commission determines that the lessee has complied with the terms of the lease, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee.

(b) If terms for a renewal of the lease are not agreed upon, or the commission determines that the lessee has not complied with the terms of the lease, the commission shall advertise for bids on the individual kelp beds comprising the lease.

(c) If a request for renewal is not made during the specified period by the lessee, the commission shall advertise for bids on the individual kelp beds comprising the lease.

(d) The duration of the term of any renewal of a lease shall not exceed 20 years.

**6705. Prior Right to Renew Lease**

Notwithstanding Section 6704, with respect to any kelp lease in effect on January 1, 1983, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee. If the lessee does not renew the lease, or if terms are not agreed upon, the commission shall advertise for bids on the individual kelp beds comprising the lease. The term of any renewal of a lease shall not exceed 20 years. Any lease in effect on January 1, 1985, may be performed pursuant to its terms, notwithstanding this article, but any renewal of that lease is subject to this article.

**6706. New Lease Negotiations**

Notwithstanding Sections 6703 and 6704, at any time during the term of a lease, the commission and the lessee may negotiate and enter into a new lease on terms agreed upon

between the two parties, if the commission determines that such a new lease would be in the best interest of the state. The initial term of the new lease shall not exceed 20 years.

#### **6707. Royalties; Advance Payments; Forfeiture**

Each lease entered into, or renewed, on or after January 1, 1985, shall require, in addition to the license fee required by this chapter, a payment by the lessee or any sublessee of not less than the minimum royalty established under Article 2 (commencing with Section 6680), for all kelp harvested from the lease area, and shall provide for an annual advance payment of not less than forty dollars (\$40) per square mile per year for the kelp bed leased, to be credited against the amount payable by the lessee, or sublessee, as the case may be, for each ton of kelp harvested during the ensuing year. The lease shall, in addition, include provisions for forfeiture of the lease if the annual payment is not made in advance.

#### **6708. Assignments and Subleases**

A lease may not be assigned, in whole or in part, by the lessee, either voluntarily or by operation of law, and no subleases or other rights may be granted thereunder by the lessee without the prior approval of the commission, subject to the conditions that the commission prescribes. The lease shall be forfeited in the event of a violation of this section. Each lease shall contain a statement of the contents of this section.

### **PART 1.7. CONSERVATION AND MANAGEMENT OF MARINE LIVING RESOURCES**

#### **CHAPTER 1. GENERAL POLICIES**

#### **7050. Findings and Declaration [Added Stats. 1998]**

(a) The Legislature finds and declares that the Pacific Ocean and its rich marine living resources are of great environmental, economic, aesthetic, recreational, educational, scientific, nutritional, social, and historic importance to the people of California.

(b) It is the policy of the state to ensure the conservation, sustainable use, and, where feasible, restoration of California's marine living resources for the benefit of all the citizens of the state. The objective of this policy shall be to accomplish all of the following:

- (1) Conserve the health and diversity of marine ecosystems and marine living resources.
- (2) Allow and encourage only those activities and uses of marine living resources that are sustainable.
- (3) Recognize the importance of the aesthetic, educational, scientific, and recreational uses that do not involve the taking of California's marine living resources.
- (4) Recognize the importance to the economy and the culture of California of sustainable sport and commercial fisheries and the development of commercial aquaculture consistent with the marine living resource conservation policies of this part.
- (5) Support and promote scientific research on marine ecosystems and their components to develop better information on which to base marine living resource management decisions.
- (6) Manage marine living resources on the basis of the best available scientific information and other relevant information that the commission or department possesses or receives.
- (7) Involve all interested parties, including, but not limited to, individuals from the sport and commercial fishing industries, aquaculture industries, coastal and ocean tourism and recreation industries, marine conservation organizations, local governments, marine scientists, and the public in marine living resource management decisions.
- (8) Promote the dissemination of accurate information concerning the condition of, or management of, marine resources and fisheries by seeking out the best available information and making it available to the public through the marine resources management process.
- (9) Coordinate and cooperate with adjacent states, as well as with Mexico and Canada, and encourage regional approaches to management of activities and uses that affect marine living resources. Particular attention shall be paid to coordinated approaches to the management of shared fisheries.

## **DIVISION 9. FINES AND PENALTIES**

### **CHAPTER 1. GENERAL PROVISIONS**

#### **12000. Violation of Code - Misdemeanor Unless Otherwise Specified**

(a) Except as expressly provided otherwise in this code, any violation of this code, or of any rule, regulation, or order made or adopted under this code, is a misdemeanor.

(b) Notwithstanding subdivision (a), any person who violates any of the following statutes or regulations is guilty of an infraction punishable by a fine of not less than one hundred dollars (\$100) and not to exceed one thousand dollars (\$1,000), or of a misdemeanor:

- (1) Section 2009.
- (2) Subdivision (a) of Section 6596.
- (3) Section 7149.8.
- (4) Section 7360.
- (5) Sections 1.14, 1.17, 1.18, 1.62, 1.63, and 1.74 of Title 14 of the California Code of Regulations.
- (6) Sections 2.00 to 5.95, inclusive, and 7.00 to 8.00, inclusive, of Title 14 of the California Code of Regulations.
- (7) Sections 27.56 to 30.10, inclusive, of Title 14 of the California Code of Regulations.
- (8) Sections 40 to 43, inclusive, of Title 14 of the California Code of Regulations.
- (9) Sections 307, 308, and 311 to 313, inclusive, of Title 14 of the California Code of Regulations.
- (10) Sections 505, 507 to 510, inclusive, and 550 to 553, inclusive, of Title 14 of the California Code of Regulations.
- (11) Sections 630 to 630.5, inclusive, of Title 14 of the California Code of Regulations.

#### **12002. Punishment; Misdemeanors and other Violations**

(a) Unless otherwise provided, the punishment for a violation of this code that is a misdemeanor is a fine of not more than one thousand dollars (\$1,000), imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

(b) The punishment for a violation of any of the following provisions is a fine of not more than two thousand dollars (\$2,000), imprisonment in the county jail for not more than one year, or both the fine and imprisonment:

- (1) Section 1059.
- (2) Subdivision (d) of Section 4004.
- (3) Section 4600.
- (4) Paragraph (1) or (2) of subdivision (a) of Section 5650.
- (5) A first violation of Section 8670.
- (6) Section 10500.
- (7) Unless a greater punishment is otherwise provided, a violation subject to subdivision (a) of Section 12003.1.

(c) Except as specified in Sections 12001 and 12010, the punishment for violation of Section 3503, 3503.5, 3513, or 3800 is a fine of not more than five thousand dollars (\$5,000), imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

(d) (1) A license, tag, stamp, reservation, permit, or other entitlement or privilege issued pursuant to this code to a defendant who fails to appear at a court hearing for a violation of this code, or who fails to pay a fine imposed pursuant to this code, shall be immediately suspended or revoked. The license, tag, stamp, reservation, permit, or other entitlement or privilege shall not be reinstated or renewed, and no other license, tag, stamp, reservation, permit, or other entitlement or privilege shall be issued to that person pursuant to this code, until the court proceeding is completed or the fine is paid.

(2) This subdivision does not apply to any violation of Section 1052, 1059, 1170, 5650, 5653.9, 6454, 6650, or 6653.5.

**12007. Violation of Section 1601, 1603, 2270, 2271, 6400, 6400.5, 15202, 15509, or 15600, or 15510 – Punishment**

Notwithstanding Section 12002, the punishment for (1) a second or subsequent violation of Section 1602 or 1605 on the same project or streambed alteration agreement; (2) each violation of Section 2270, 2271, 6400, 6400.5, 15202, 15509, or 15600; or (3) each violation of any regulation adopted pursuant to Section 15510, is a fine of not more than five thousand dollars (\$5,000) or imprisonment in the county jail for a period not to exceed one year, or both the fine and imprisonment.

**DIVISION 12. AQUACULTURE**

**CHAPTER 1. GENERAL PROVISIONS**

**15000. Aquaculture Business; Governance; Exemptions; Exceptions**

(a) The business of aquaculture is governed by this division and is exempt from Part 3 (commencing with Section 7600) of Division 6 and any other provision of this code relating to commercial fishing, harvesting, processing, and marketing.

(b) Except as provided in Sections 15005, 15200, 15201, and 15202, the business of aquaculture processing, distribution, and marketing is administered by the Secretary of Food and Agriculture.

(c) The director may enter into an agreement with the Secretary of Food and Agriculture for the resolution of any conflict that arises under subdivision (b).

(d) Any costs incurred by the department in implementing Sections 15005, 15200, 15201, and 15202 shall be recovered pursuant to this division.

**15001. Ownership of Cultured Progenies**

The cultured progeny of wild plants and animals lawfully obtained under Section 15300 are the exclusive property of that person who cultured them or that person's successor in interest.

**15002. Take Aquaculture Products Without Lawful Entitlement**

Any person who takes aquaculture products without lawful entitlement is subject to prosecution for theft.

**15003. Fees on Products Grown on Public Lands and Waters**

(a) The department may assess a fee on persons growing aquaculture products on public lands and in public waters based on the price per pound of the products sold. The fees, if imposed, shall be set at amounts necessary to defray the costs of the commission and the department in administering this division. However, the fees if any, may not exceed the tax rates as provided in Section 8051.

(b) The price per pound for these taxation purposes shall be based on the whole product weight or its equivalent as taken by the lessee.

(c) The privilege tax imposed by this section shall be paid monthly to the department within 30 days after the close of each month. If not paid within 60 days after the close of the month in which it is due, a 10 percent penalty shall be paid.

**15004. Adequate Funding of Aquaculture Program; Inspection Costs**

(a) Commencing in 1992, the department shall, at least once every five years, analyze the fees and taxes authorized by this division to ensure that the amount of the appropriate fee or tax is sufficient to fully fund the aquaculture program.

(b) The department shall, as appropriate, recommend fee or tax changes to the Legislature or the commission.

(c) Aquaculturists operating under this division shall pay all costs incurred by the department when conducting any inspections of plants, animals, facilities, or culture areas required by this division, or by regulations adopted pursuant to this division, when requested by the aquaculturists.

**15005. Regulation of Specific Products; I.D. of Certain Products**

(a) When necessary for the protection of native wildlife, the commission may regulate the transportation, purchase, possession, and sale of specific aquaculture products as provided for in this section.

(b) The commission may determine that aquaculture products shall be accompanied by a document containing any of the following information:

- (1) The name, address, and registration number of the aquaculture producer.
- (2) The species.
- (3) The weight, volume or count within the container.
- (4) The date of the shipment.
- (5) The name and address of the intended receiver.

(c) The commission may require that certain aquaculture products shall be additionally identified as being aquaculture produced, except for the following:

- (1) Trout.
- (2) Catfish.
- (3) Kelp and aquatic plants.
- (4) Frogs and amphibia.
- (5) All bivalve mollusks (except little neck clams).
- (6) All members of the family Centrarchidae.
- (7) Crayfish.
- (8) Sea urchins.
- (9) Shrimp and fresh water prawns.
- (10) Crab.

**15006. Division Not Applicable to Animals and Plants for Pet and Hobby Purposes**

Nothing in this division applies to authorized species of ornamental marine or freshwater plants and animals not utilized for human consumption or bait purposes that are maintained in closed systems for personal, pet industry, or hobby purposes.

**15007. Ocean Ranching Not Permitted by this Division; Exception**

(a) In the waters of the Pacific Ocean that are regulated by this state, it is unlawful to spawn, incubate, or cultivate any species of finfish belonging to the family Salmonidae, transgenic fish species, or any exotic species of finfish. This section does not apply to salmon or steelhead trout reared from native California stocks that are propagated and cultured for either of the following:

- (1) Research conducted by, or on behalf of, the department; or
- (2) Release into ocean waters for the purpose of recovery, restoration, or enhancement of California's native salmon and steelhead trout populations pursuant to Chapter 8 (commencing with Section 6900) of Part 1 of Division 6.

(b) Nothing in this section authorizes artificial propagation, rearing, or stocking of transgenic freshwater and marine fishes, invertebrates, crustaceans, or mollusks.

(c) As used in this section, "transgenic" has the same meaning as in Section 1.92 of Title 14 of the California Code of Regulations, as that section read on May 14, 2003.

(d) As used in this section, "exotic species" means a fish that is not native to California waters and that does not currently exist as a viable population in a wild condition in the state.

**15008. Programmatic environmental impact report; Preparation**

(a) The department shall, in consultation with the Aquaculture Development Committee, prepare programmatic environmental impact reports for existing and potential commercial aquaculture operations in both coastal and inland areas of the state if both of the following conditions are met:

- (1) Funds are appropriated to the department for this purpose.
- (2) Matching funds are provided by the aquaculture industry. For the purpose of this section, "matching funds" include, but are not limited to, any funds expended by the aquaculture industry before January 1, 2006, for the preparation of a programmatic environmental impact report.

(b) If the final programmatic environmental impact report is prepared pursuant to subdivision (a) for coastal marine finfish aquaculture projects and approved by the commission under the

California Environmental Quality Act set forth in Division 13 (commencing with Section 21000) of the Public Resources Code, the report shall provide a framework for managing marine finfish aquaculture in an environmentally sustainable manner that, at a minimum, adequately considers all of the following factors:

- (1) Appropriate areas for siting marine finfish aquaculture operations to avoid adverse impacts, and minimize any unavoidable impacts, on user groups, public trust values, and the marine environment.
- (2) The effects on sensitive ocean and coastal habitats.
- (3) The effects on marine ecosystems, commercial and recreational fishing, and other important ocean uses.
- (4) The effects on other plant and animal species, especially species protected or recovering under state and federal law.
- (5) The effects of the use of chemical and biological products and pollutants and nutrient wastes on human health and the marine environment.
- (6) The effects of interactions with marine mammals and birds.
- (7) The cumulative effects of a number of similar finfish aquaculture projects on the ability of the marine environment to support ecologically significant flora and fauna.
- (8) The effects of feed, fish meal, and fish oil on marine ecosystems.
- (9) The effects of escaped fish on wild fish stocks and the marine environment.
- (10) The design of facilities and farming practices so as to avoid adverse environmental impacts, and to minimize any unavoidable impacts.

## **CHAPTER 2. AQUACULTURE DEVELOPMENT SECTION**

### **15100. Duties of Aquaculture Coordinator**

There is within the department an aquaculture coordinator who shall perform all of the following duties:

- (a) Promote understanding of aquaculture among public agencies and the general public.
- (b) Propose methods of reducing the negative impact of public regulation at all levels of government on the aquaculture industry.
- (c) Provide information on all aspects of regulatory compliance to the various sectors of the aquaculture industry.
- (d) Provide such advice to aquaculturists on project siting and facility design that may be needed to comply with regulatory requirements.

### **15101. Registration; Requirements; Fees**

(a) The owner of each aquaculture facility shall register all of the following information with the department by March 1 of each year:

- (1) The owner's name.
- (2) The species grown.
- (3) The location or locations of each operation or operations.

(b) The department may provide registration forms for this purpose, may establish a procedure for the review of the information provided to ensure that the operation will not be detrimental to native wildlife, and shall impose a registration fee of five hundred forty-nine dollars (\$549) to recover the cost of reviewing new registrations. For renewing registrations, the department shall impose a registration fee of two hundred seventy-five dollars (\$275). It is unlawful to conduct aquaculture operations or to culture approved species of aquatic plants and animals unless registered under this section. The registration fees specified in this section are applicable to the 2004 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(c) The annual registration of information required by subdivision (b) is not a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

**15102. Detrimental Operations May Be Prohibited**

The department may prohibit an aquaculture operation or the culturing of any species at any location where it is determined it would be detrimental to adjacent native wildlife.

**15103. Aquaculture Facility Additional Surcharge**

(a) In addition to the fees specified in Section 15101, a surcharge fee of four hundred twelve dollars (\$412) shall be paid at the time of registration by the owner of an aquaculture facility if the gross annual sales of aquaculture products of the facility during the prior calendar year exceed twenty-five thousand dollars (\$25,000).

(b) Each registered aquaculturist shall maintain sales and production records which shall be made available upon request of the department to assist the department in the administration of this chapter.

(c) Any person who fails to pay the surcharge fee required in this section at the time of registration shall be assessed a delinquency penalty pursuant to Section 15104.

(d) The surcharge imposed pursuant to this section shall be applicable to the 2004 registration year and shall be adjusted annually thereafter pursuant to Section 713.

**15104. Delinquent Fees; Penalty**

(a) If any person engages in the business of aquaculture, as regulated under this division, without having paid the registration fee or surcharge fee within one calendar month of the commencement of business, or, for renewal of registration, on or before April 1 of the registration year, the fees are delinquent.

(b) A penalty shall be paid at the time of registration for any fees that are delinquent in the amount of fifty dollars (\$50).

(c) The penalty imposed pursuant to subdivision (b) shall be applicable to the 2005 registration year, and shall be adjusted thereafter pursuant to Section 713.

**15105. Moneys Collected; Disposition**

(a) Notwithstanding Section 13001 or 13002, all moneys collected by the department pursuant to this division shall be deposited in the Fish and Game Preservation Fund and shall be expended solely on the department's aquaculture program pursuant to this division.

(b) Notwithstanding Section 13004, these moneys are available for appropriation by the Legislature in the annual Budget Act for purposes of this division.

(c) The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of these funds are met.

**CHAPTER 3. STOCKING AQUATIC ORGANISMS****15200. Placing Plants and Animals; Move Live Fish Between Aquaculturists**

The commission may regulate the placing of aquatic plants and animals in waters of the state. Movement of live fish between two registered aquaculturists who are registered for those species does not require a permit.

**15201. Place Fish Above Fish Hatchery; Permit Required**

A permit is required to place fish on public or private land or water in any watershed above an established public or private fish hatchery. The department shall deny the permit if there is evidence that water quality and potential disease transfers will be adverse to the established hatchery.

**15202. Placing of Species; Prohibitions**

The commission may prohibit the placement of specific species of aquatic plants or animals in designated waters of the state. The prohibition may not include species that are found to be native or that are stocked by the state in a location where prohibition is contemplated.

## **CHAPTER 4. BROOD STOCK ACQUISITION**

### **15300. Brood Stock Sources**

Aquatic plants or animals may be legally obtained for use as brood stock from all of the following sources:

- (a) A holder of a commercial fishing license.
- (b) A registered aquaculturist.
- (c) The department.
- (d) Imported sources authorized by Chapter 7 (commencing with Section 15600).

### **15301. Sale of Wild Species by Department; Collection of Wild Species by Aquaculturists**

(a) The department may sell wild aquatic plants or animals, except rare, endangered, or fully protected species, for aquaculture use at a price approximating the administrative cost to the department for the collection or sale of the plants or animals. The commission shall set this price.

(b) Aquatic plants and animals may be collected by a registered aquaculturist only with the written approval of the department. The department may specify the time, place, and manner of collection and may collect a fee from the aquaculturist in an amount sufficient to cover the cost of processing the approval.

(c) Notwithstanding subdivision (a), the fee for collecting sturgeon or striped bass broodstock shall be five hundred dollars (\$500).

## **CHAPTER 5. LEASING OF STATE WATER BOTTOMS**

### **15400. Leasing of State Water Bottoms**

(a) Except as prohibited by Section 15007, the commission may lease state water bottoms or the water column to any person for aquaculture, including, but not limited to, marine finfish aquaculture. Upon appropriation of funds for that purpose, or if funds are otherwise available, the commission shall adopt regulations governing the terms of the leases, after consulting with affected stakeholder in a public process. No state leases shall be issued, unless the commission determines that the lease is in the public interest in a public hearing conducted in a fair and transparent manner, with notice and comment, in accordance with commission procedures. Leases issued, and regulations adopted, pursuant to this section shall not be construed to be fishery management plans.

(b) A person shall not engage in marine finfish aquaculture in ocean waters within the jurisdiction of the state without a lease from the commission. Leases and regulations adopted by the commission for marine finfish aquaculture shall meet, but are not limited to, all of the following standards:

(1) The lease site is considered appropriate for marine finfish aquaculture in the programmatic environmental impact report if prepared and approved by the commission pursuant to Section 15008.

(2) A lease shall not unreasonably interfere with fishing or other uses or public trust values, unreasonably disrupt wildlife and marine habitats, or unreasonably harm the ability of the marine environment to support ecologically significant flora and fauna. A lease shall not have significant adverse cumulative impacts.

(3) To reduce adverse effects on global ocean ecosystems, the use of fish meal and fish oil shall be minimized. Where feasible, alternatives to fish meal and fish oil, or fish meal and fish oil made from seafood harvesting byproducts, shall be utilized, taking into account factors that include, but need not be limited to, the nutritional needs of the fish being raised and the availability of alternative ingredients.

(4) Lessees shall establish best management practices, approved by the commission, for each lease site. Approved best management practices shall include a regular monitoring, reporting, and site inspection program that requires at least annual monitoring of lease sites to ensure that the operations are in compliance with best management practices related to fish disease, escapement, and environmental stewardship, and that operations are meeting the requirements of this section. The commission may remove fish stocks, close facilities, or terminate the lease if it finds that the lessee is not in compliance with best management practices, that the lessee's



activities have damaged or are damaging the marine environment, or that the lessee is not in compliance with this section. The commission shall take immediate remedial action to avoid or eliminate significant damage, or the threat of significant damage, to the marine environment.

(5) Before issuance of the lease, the lessee shall provide baseline benthic habitat and community assessments of the proposed lease site to the applicable regional water quality control board or the State Water Resources Control Board, and shall monitor the benthic habitat and community during the operation of the lease in a manner determined by the regional board or the State Water Resource Control Board. The regional board and the State Water Resources Control Board may establish and impose reasonable permit fees to pay for the costs of administering and conducting the assessment and monitoring program.

(6) Finfish numbers and density shall be limited to what can be safely raised while protecting the marine environment, as specified by the terms of the lease, subject to review and amendment by the commission.

(7) The use of all drugs, chemicals, and antibiotics, and amounts used and applied, shall be minimized. All drugs, therapeutic substances, and antibiotics shall be used and applied only as approved by the United States Food and Drug Administration for marine finfish aquaculture. The lessee shall report that use and application to the commission on a regular schedule, as determined by the commission, but no less than annually, that shall be included in the terms of the lease. The commission shall review those reports on a regular basis and at least annually.

(8) The commission shall require all farmed fish to be marked, tagged, or otherwise identified as belonging to the lessee in a manner determined appropriate by the commission, unless the commission determines that identifying farmed fish is unnecessary for protecting wild fish stocks, the marine environment, or other ocean uses.

(9) All facilities and operations shall be designed to prevent the escape of farmed fish into the marine environment and to withstand severe weather conditions and marine accidents. The lessee shall maintain records on all escapes in a manner determined by the commission. In the event of more than de minimis escapement, the number of escaped fish and the circumstances surrounding the incident shall be reported immediately to the commission, and the lessee shall be responsible for damages to the marine environment caused by those escaped fish, as determined by the commission.

(10) The lessee shall, at a minimum, meet all applicable requirements imposed by the State Water Resources Control Board and the regional water quality control boards, and shall prevent discharges to the maximum extent possible. Monitoring and testing of water quality shall be required on a regular basis as deemed appropriate by the State Water Resources Control Board or the regional water quality control boards. All inspection and monitoring reports and other records, and all data on the discharge of chemical and biological pollutants shall be kept on file and available for public review.

(c) If a restoration or enhancement plan is submitted to, and approved by, the commission, and that plan, among other things, provides for monitoring and protecting the benthic habitat, the prevention of pollution, and the prevention of adverse impacts on wild fish stocks from disease, parasites, and genetic alterations, subdivision (b) shall not apply to any of the following:

(1) Artificial propagation, rearing, and stocking projects for the purpose of recovery, restoration, or enhancement of native fish stocks carried out under either of the following:

(A) A scientific collecting or research permit issued by the department.

(B) The California Ocean Resources Enhancement and Hatchery Program, as set forth in Article 8 (commencing with Section 6590) of Chapter 5 of Part 1 of Division 6, for the enhancement of white sea bass.

(2) Nonprofit hatcheries and nonprofit artificial propagation projects operated by, or on behalf of, licensed commercial or sport fishermen and fisherwomen for the purpose of recovery, restoration, or enhancement of California's native marine fish populations, pursuant to Chapter 8 (commencing with Section 6900) of Part 1 of Division 6.

(d) Nothing in this section shall be construed to limit or expand the application of any other state law or regulation pertaining to marine finfish aquaculture conducted within the ocean waters under the jurisdiction of this state.

**15401. Public Clam Digging Area Not for Lease**

Areas used by the public for digging clams shall not be leased. The department shall designate those areas.

**15402. Lessee Owns Organisms Described in Lease Application; Exclusive Cultivation Rights**

A lessee of a state water bottom owns all lawfully cultivated organisms that are described in the application for the lease and produced in the area leased. The lessee has the exclusive right to cultivate and harvest the aquatic organisms in the area leased.

**15403. Lease Application' Fee; Contents**

Persons wishing to lease a state water bottom shall make a written application to the commission. An application shall contain all of the following information:

- (a) A map showing the area to be leased, its general vicinity, and all ownership and boundary lines in the vicinity.
- (b) A description of the organisms to be grown and the culture techniques to be used.
- (c) An estimate of the acreage to be leased.
- (d) A nonrefundable filing fee of five hundred dollars (\$500).

The lessee shall assume responsibility for any infringement on privately owned water bottoms, or water bottoms owned by, or under the jurisdiction of any city, county, or district.

**15404. Lease Consideration; Public Notice**

(a) If the commission finds that the area applied for is available for lease and that the lease would be in the public interest, it shall publish a notice that the area is being considered for leasing.

(b) The commission shall have legal notices published in a newspaper of general circulation in each county where the water bottom, or any part thereof, is located, describing the area to be leased and the type of operation to be conducted. The publication shall comply with Sections 6060 and 6066 of the Government Code.

**15405. Lease Term not to Exceed 25 Years**

(a) Except as specified in subdivision (b), no initial term of a state water bottom lease shall exceed 25 years.

(b) The initial term of a state water bottom lease for marine finfish aquaculture shall not exceed 10 years.

**15406. Renewal of Lease**

(a) Each state water bottom lease shall specify a period prior to expiration when renewal of the lease may be requested by the lessee. If during this period the lessee is still actively engaged in aquaculture, as determined by the commission, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee. If terms are not agreed upon, the commission shall advertise for bids on the lease. If a request for renewal is not made by the lessee, the commission shall advertise for bids on the lease. The commission shall consider bids only from aquaculturists registered pursuant to Section 15101.

(b) Notwithstanding subdivision (a), with respect to any lease of state water bottoms in effect on January 1, 1983, the lessee shall have a prior right to renew the lease. If the lessee does not renew the lease, the commission shall advertise for bids on the lease. The commission shall consider bids only from aquaculturists registered pursuant to Section 15101.

(c) Except as specified in subdivision (d), a lease may be renewed for additional periods not to exceed 25 years each.

(d) A lease for marine finfish aquaculture may be renewed for additional periods not to exceed five years each.

**15406.5. Minimum Acceptable Annual Rent**

(a) Except as specified in subdivision (b), the commission shall award water bottom leases to the highest responsible bidder, if the bid meets or exceeds the minimum annual rent established

by the commission, which shall not be less than two dollars (\$2) per acre, for all species cultivated, unless the acreage applied for is 10 acres or less, in which case the minimum acceptable rent shall be ten dollars (\$10) per acre. The annual rent for any lease in effect on January 1, 1983, for the cultivation of oysters shall be one dollar (\$1) per acre until the expiration thereof. The commission may reject any or all bids for the lease of state water bottoms if it deems the rejection to be in the public interest.

(b) Fees for marine finfish aquaculture leases shall, at a minimum, be sufficient to pay for the costs of administering the marine finfish leasing program, and for monitoring and enforcing the terms of the leases.

#### **15406.7. Oyster Lease Privilege Tax**

(a) In addition to the rent provided in Section 15406.5, every person operating under an oyster lease shall pay a privilege tax of four cents (\$0.04) per packed gallon, or fraction thereof, of shucked oysters harvested by the lessee.

(b) If the oysters are marketed in the shell, the tax shall be based on the equivalent yield of shucked oyster meat. In determining the yield of oysters, it shall be deemed that 100 oysters are equivalent to one packed gallon of shucked oyster meat.

(c) The tax imposed by this section is the exclusive privilege tax that shall be imposed on lessees of state water bottoms for oyster cultivation, notwithstanding subdivision (a) of Section 15003.

#### **15407. Rent Payment Schedule**

The annual rent shall be paid to the department within 30 days of the commencement of the lease and within 30 days of the anniversary thereof. The commission may establish penalty fees for late payment and may cancel the lease if rent is not paid within 90 days of the commencement of the lease or within 90 days of any anniversary thereof.

#### **15408. Termination of Lease; Commission to Establish Regulations**

The commission shall promulgate regulations governing the termination of leases due to failure to pay rent or improper use of the leasehold.

#### **15409. Removal of Structures When Lease Terminated**

(a) Upon termination of a lease, for any reason, all structures shall be removed at the lessee's expense from the leasehold, and the area shall be restored to its original condition. If the lessee fails to remove the structures, the state may remove them and the lessee shall pay the removal costs incurred.

(b) The commission shall require financial assurances of each marine finfish aquaculture lessee to ensure that restoration is performed to the satisfaction of the commission. Financial assurances may take the form of surety bonds executed by an admitted surety insurer, irrevocable letters of credit, trust funds, or other forms of financial assurances specified by the commission, as it determines are available and adequate to ensure the lease site is restored pursuant to this section.

(c) Marine finfish aquaculture lessees shall be responsible for any damages caused by their operations, as determined by the commission, including, but not limited to, reimbursement for any costs for natural resource damage assessment.

(d) Nothing in this section limits the state in pursuing additional remedies authorized by law.

#### **15410. Leases Subject to Legislative Powers to Adjust Rates**

All leases shall be subject to the power of the Legislature to increase or decrease the rents, fees, taxes, and other charges relating to the lease, but no increase in rent shall be applicable to an existing lease until it is renewed.

#### **15411. Public Access to Leased Area; Recreational Activity**

Lessees under a state water bottom lease may not unreasonably impede public access to state waters for purpose of fishing, navigation, commerce, or recreation. The lessee may, however,

limit public access to the extent necessary to avoid damage to the leasehold and the aquatic life culture therein.

The commission may prohibit any recreational activity in any aquaculture area subject to a state water bottom lease if it determines that the activity is detrimental to the enhancement of the resource.

#### **15412. Assignment of Lease**

No water bottom lease may be assigned without the prior approval of the commission. Application for approval of a lease assignment shall comply with all of the requirements for an original lease.

#### **15413. Enter Area; Destroy Aquatic Life or Boundary Markers**

No person may enter upon any area subject to a water bottom lease in which aquatic life is cultivated, or remove the aquatic life therefrom without the consent of the lessee, or willfully destroy the cultivated aquatic life or any markers intended to designate the boundaries and limits of the leased area.

#### **15414. Water Bottom Leases; Periodic Reports**

A water bottom lease may require periodic reports that the commission deems necessary for the proper administration of the state's water bottoms.

### **CHAPTER 6. DISEASE CONTROL**

#### **15500. Commission Shall Compile List of Diseases, etc., and Species Affected**

Upon the recommendation of the department and after consultation with the Aquaculture Disease Committee created pursuant to this chapter, the commission shall compile a list of diseases and parasites and the aquatic plants and animals they are known to infect or parasitize. All government activities relating to aquaculture disease detection, control, and eradication that do not affect human health and safety are the responsibility of the department.

#### **15501. Entry for Disease or Parasite Inspection**

The department may enter, under an inspection warrant issued pursuant to Title 5 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, at any time, any car, warehouse, depot, ship, or growing area where any aquatic plants or animals are held or stored, for the purpose of making an examination to ascertain whether the aquatic plants or animals are infected, diseased, or parasitized.

#### **15502. Aquaculture Disease Committee; Membership, etc.**

The director, in consultation with the Aquaculture Industry Advisory Committee and the Interagency Committee for Aquaculture Development, shall appoint an 11-member Aquaculture Disease Committee consisting of at least six industry producers selected to represent geographic, specie, and other diverse aspects of the industry; two to represent the department; one to represent the Department of Food and Agriculture; an academic scientist who is an expert in aquatic Diseases; and one representative of the University of California Cooperative Extension. Members of the committee shall serve without compensation, but shall be paid their necessary expenses.

#### **15503. Disease Committee May Recommend Regulations**

The Aquaculture Disease Committee may recommend regulations to the commission designed to safeguard wild and cultured organisms from the list of harmful organisms compiled pursuant to Section 15500.

#### **15504. Content of Recommended Regulations**

Regulations recommended under Section 15503 and adopted by the commission may include all of the following:

- (a) Routine monitoring procedures.

- (b) Standardized diagnostic procedures.
- (c) A requirement for the confirmation of the diagnosis by the state through at least one other independent and qualified laboratory.
- (d) Criteria for ordering quarantine, condemnation, or destruction.
- (e) A stated maximum time period between diagnosis and destruction.
- (f) Methods to be employed in animal destruction and facility cleanup.
- (g) Procedures for determining fair and rapid compensation.
- (h) Any other related procedures that the commission may determine are necessary.

#### **15505. Discovery of Disease or Parasite – Possible Actions**

If any of the diseases or parasites listed pursuant to Section 15500 is found to exist which the director, in consultation with the Aquaculture Disease Committee and consistent with the regulations adopted under Section 15504, deems to be detrimental to the aquaculture industry or to wild stocks of aquatic plants and animals, the director may do any of the following:

- (a) Establish the area to be quarantined and list the aquatic plants and animals affected by it.
- (b) Post notices describing, as nearly as possible, the boundaries of an area within which specific disease or parasite infestations are found. Notices posted pursuant to this subdivision shall be published once a week for four successive weeks in a newspaper of general circulation in the county in which the infected area is located. If there is no newspaper of general circulation in that county, then the notice shall be published in a newspaper of general circulation published in an adjoining county.
- (c) Hold and impound diseased or parasitized plants and animals.
- (d) Forbid, prevent, or restrict the movement of all plants and animals subject to the disease or parasite from or into the area, or from place to place within it, during the existence of the quarantine.
- (e) Order the destruction and disposal of diseased or parasitized plants and animals consistent with Section 15504.

#### **15506. Quarantine, etc., Only if Outbreak Determined to be Threat**

Except for those diseases in the list compiled pursuant to Section 15500, infected plants or animals shall not be quarantined or destroyed, unless the director, in consultation with the Aquaculture Disease Committee, finds that an outbreak of aquatic disease among privately cultured plants or animals presents a threat to the aquaculture industry or to fish life or plant life.

#### **15507. Infections in Government and Private Facilities**

If the director, in consultation with the Aquaculture Disease Committee, finds that a disease is present in a nearby government operated facility or in nearby wild stocks, infected plants or animals in a private aquaculture facility shall not be quarantined or destroyed unless similar action is taken with respect to the government facility and wild stocks.

#### **15508. Reports of Diseases, etc., to the Director of Disease Committee – Expedite**

Reports of those diseases and parasites compiled pursuant to Section 15500 shall be immediately forwarded by the director to the Aquaculture Disease Committee and shall be promptly investigated by the department.

#### **15509. Movement of Species Quarantined; Permit Required**

No person may move, or allow to be moved, any of the aquatic plants or animals which are subject to a quarantine established pursuant to Section 15505 across the quarantine line which is established, unless the person has first obtained a permit from the director authorizing the movement.

The director may issue a permit after inspection, if the aquatic plants or animals, premises, transportation vehicles, and equipment which are subject to the quarantine established pursuant to Section 15505 are properly cleaned and disinfected.

**15510. Importation of Foreign, Infected Organisms**

If the director determines that any disease designated pursuant to Section 15500 exists among domestic aquatic plants and animals, or that aquatic plants and animals have been exposed, or may have been exposed, to the disease, or to the vectors of the disease, in any other state or territory in the United States or in any foreign country, and the importation of aquatic plants or animals from the state, territory, or foreign country may transmit, carry, or disseminate the disease to domestic plants and animals within this state, the director shall notify the commission which may, after consulting the State Department of Health Services and the Department of Food and Agriculture, issue a regulation restricting or prohibiting the importation of the diseased or infected aquatic plants or animals into this state from any other state, territory, or foreign country.

**15512. Destruction of Aquatic Plants or Animals Pursuant to Section 15505 (e); Repayment**

(a) If aquatic plants or animals are destroyed pursuant to subdivision (e) of Section 15505, the owner shall be promptly paid from the General Fund an amount equal to 75 percent of the replacement value of the plants or animals, less the value determined by the department of any replacement stock provided by the department under subdivision (b) if the claim is submitted pursuant to Section 15513. If the replacement value is not settled between the owner and the department, the replacement value shall be determined by an appraiser appointed by the director and an appraiser appointed by the owner. Appraiser's fees shall be paid by the appointing party. Disputes between these two appraisers shall be submitted to arbitration under the Commercial Arbitration Rules of the American Arbitration Association.

(b) If the department provides replacement stock to an aquaculturist whose plants or animals are destroyed pursuant to subdivision (e) of Section 15505, the amount to be paid to the aquaculturist pursuant to this section shall be reduced by the value of the replacement stock, as determined by the department.

(c) The result of the arbitration or the amount settled between the owner and the department, reduced by the value determined by the department of any replacement stock provided under subdivision (b), may be submitted as a claim by the owner to the California Victim Compensation and Government Claims Board pursuant to Section 15513.

**15513. Submission of Claims Against the Department**

Claims against the department arising under this chapter may be submitted pursuant to Section 905.2 of the Government Code.

**15514. Payment of Claims**

No claim arising under this chapter shall be paid where the director, in consultation with the Aquaculture Disease Committee, finds that the claimant's management practices were negligent or in violation of law, and that the negligence or violation was the proximate cause of the disease or infection prompting the order of destruction or finds the claimant willfully violated any provision of Section 15505.

**15516. Owner's Responsibility to Pursue Eradication of Disease**

The owner of an aquaculture product who does not diligently pursue the eradication of a disease from its facility when ordered to do so by the director shall be responsible for paying to the director the full costs of the department for all disease eradication efforts conducted by the department to eradicate the disease. Payment of the costs under this section shall not excuse compliance with the provisions of law, regulations of the commission, and orders of the director, nor be a defense in any criminal or civil proceedings.

**CHAPTER 7. IMPORTATION OF AQUATIC PLANTS AND ANIMALS****15600. Importation of Live Organisms; Requirements and Restrictions**

(a) No live aquatic plant or animal may be imported into this state by a registered aquaculturist without the prior written approval of the department pursuant to the regulations adopted by the commission.

(b) The department shall not approve the importation of, or renew a permit to import, any anadromous fish or roe thereof listed in Section 2118 or the regulations adopted under Section 2118 into the Smith River watershed by a person unless that person had a permit or authorization approved before February 22, 1988. However, the department may issue or renew a permit for the importation of any anadromous fish or roe thereof specifically for research purposes conducted at any university, college, governmental research agency, or other bona fide scientific institution, as determined by the department, engaging in scientific or public health research.

#### **15601. Approval of Written Application**

A written application for the importation submitted in conformance with the procedural requirements established by the commission is deemed to be approved where it has not been denied within 60 days.

#### **15604. Smith River Hatcheries not Exempt from California Environmental Quality Act**

No facility constructed for the purpose of spawning, incubating, or raising of anadromous fish listed in Section 2118 in the Smith River watershed is exempt from any provision of the California Environmental Quality Act.

#### **15605. Atlantic Salmon Importation or Possession in the Smith River Watershed**

(a) Nothing in this chapter prohibits the importation of Atlantic Salmon or the roe thereof, or the continued possession of Atlantic salmon or the roe therefrom which were lawfully imported or possessed on or before February 22, 1988, in the Smith River watershed under a written approval of the department issued pursuant to Section 15600.

(b) Nothing in this chapter applies to the importation or possession of dead Atlantic salmon or nonviable roe therefrom imported for human consumption if the importer has the appropriate licenses issued by the department.

### **CHAPTER 8. AQUACULTURE DEVELOPMENT COMMITTEE**

#### **15700. Appointment of Members**

The director shall appoint an Aquaculture Development Committee consisting of the following persons:

(a) At least 12 members representing all sectors of the fresh and salt water aquaculture industry.

(b) One member representing the department, two members from and chosen by the University of California, one with expertise in aquaculture science and one with expertise in outreach to the fisheries community, and one member each from and chosen by the Department of Food and Agriculture, the California Coastal Commission, the State Lands Commission, the State Water Resources Control Board, the State Department of Health Services, and the Joint Legislative Committee on Fisheries and Aquaculture. The member of the committee appointed by the Joint Legislative Committee on Fisheries and Aquaculture shall meet and, except as otherwise provided by the California Constitution, advise the committee to the extent that this advisory participation is not incompatible with his or her position as a Member of the Legislature.

#### **15701. Term of Membership and Compensation**

(a) The term of membership for members other than representatives of public agencies shall be three years. The representatives of public agencies shall serve at the pleasure of the agency that the member represents.

(b) Members of the committee shall serve without compensation.

#### **15702. Duty of Committee**

(a) The committee shall be advisory to the director on all matters pertaining to aquaculture and shall coordinate activities among public entities.

(b) The committee shall assist the director in developing and implementing a state aquaculture plan, identify the opportunities for regulatory relief, assist in development of research and development priorities, assist in the development of criteria to assure that publicly financed pilot

programs are compatible with industry needs, and identify other opportunities for industrial development.

**15703. Committee Meetings – Frequency**

The committee shall meet on the call of the director, but not less than twice each year.

**CODE OF CIVIL PROCEDURE**

**PART 3. OF SPECIAL PROCEEDINGS OF A CIVIL NATURE**

**TITLE 13. INSPECTION WARRANTS**

**1822.58. Inspections by Personnel of Fish and Game Department**

A warrant may be issued under the requirements of this title to authorize personnel of the Department of Fish and Game to conduct inspections of locations where fish, amphibia, or aquatic plants are held or stored under Division 12 (commencing with Section 15000) of the Fish and Game Code.

**FOOD AND AGRICULTURE CODE**

**GENERAL PROVISIONS AND DEFINITIONS**

**23.5. Commercial Fish Production Considered Branch of Agricultural Industry**

The commercial production of aquatic plants and animals propagated and raised by a registered aquaculturist pursuant to Section 15101 of the Fish and Game Code in the state is a growing industry and provides a healthful and nutritious food product, and, as a commercial operation, utilizes management, land, water, and feed as do other agricultural enterprises. Therefore, the commercial production of that aquatic life shall be considered a branch of the agricultural industry of the state for the purpose of any law that provides for the benefit or protection of the agricultural industry of the state except those laws relating to plant quarantine or pest control.

**HEALTH AND SAFETY CODE**

**CHAPTER 5. SANITARY CONTROL OF SHELLFISH**

**Article 1. Declaration of Policy and Definitions**

**112150. Legislative Findings and Declarations**

The Legislature finds and declares that the public health interest requires that the people of this state be protected from adulterated shellfish grown and harvested in state waters for sale to the public and for introduction into interstate commerce. This protection is a matter of statewide concern and the purpose of this chapter is to establish uniform sanitation standards for the growing waters, harvesting, shucking, packing, repacking, and handling of shellfish and shellstock intended for human consumption.

**112155. Definitions**

Unless the context otherwise requires, the definitions set forth in this article govern the construction of this chapter.

(a) "Shellfish" means native or nonnative bivalve mollusks, which include oysters, rock scallops, clams, and mussels, either fresh or frozen, and either shucked or in the shell.

(b) "Shellstock" means shellfish which remain in their shells.

(c) "Growing area" means any offshore ocean, coastal estuarine, or freshwater area that may be classified by the department for natural shellfish growth or artificial shellfish propagation and includes open seawater systems.

(d) "Approved area" means a shellfish-growing area not adversely affected by sewage or other wastes.



- (e) "Conditionally approved area" means a shellfish-growing area that may be occasionally affected by sewage or other wastes.
- (f) "Prohibited area" means a shellfish-growing area not certified because of its proximity to a waste discharge or because the area is influenced by other detrimental environmental factors.
- (g) "Restricted area" means a shellfish-growing area subjected to a limited degree of pollution which makes it unsafe to harvest shellfish for direct marketing but where harvesting for relaying or depuration may be permitted.
- (h) "Other wastes" means wastes, such as, but not limited to, animal, industrial, radiological, and agricultural wastes which would render shellfish unsafe or unfit for human consumption.
- (i) "Department" means the State Department of Health Services.
- (j) "Director" means the State Director of Health Services.
- (k) "Person" includes any individual, partnership, corporation, limited liability company, and association.
- (l) "Closed area" means an area that the shellfish taken therefrom have been declared to be unsafe or unfit for human consumption.

## **Article 2. General Requirements**

### **112160. Closing of Areas; Notice of Intended Action; Emergency Action**

- (a) The director may declare any area within the jurisdiction of this state to be a closed area if it is determined that shellfish taken from the growing area may be unsafe or unfit for human consumption.
- (b) The director shall close to the taking of shellfish for a period deemed advisable any waters to which shellfish from a closed area may have been transferred.
- (c) The director shall establish by order the areas that he or she declares unsafe or unfit for shellfish harvesting and shall modify or revoke the order in accordance with the results of chemical, toxicologic, and bacteriological surveys conducted by the department. The director shall file the order in the office of the department, and shall furnish copies of the orders describing closed areas to the Department of Fish and Game, the State Water Resources Control Board, and to any interested person without charge.
- (d) Prior to the director's declaration that shellfish-growing waters may be unsafe and shellfish grown in these waters may not be taken for human consumption, the department shall do all of the following:
  - (1) Give at least 20 days' notice of its intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subject and issues involved, and the time when, the place where, and the manner in which, interested persons may present their views thereon.
  - (2) Afford all interested persons reasonable opportunity to submit data, views, or arguments orally or in writing. The department shall consider fully all written and oral submissions respecting the proposed action.
  - (e) If the department finds that the shellfish harvested from an area is unsafe or unfit for human consumption and states in writing its reasons for that finding, it may proceed without prior notice or hearing to take emergency action. The action may be effective for a period of not longer than 30 days, during which time the department shall initiate the procedures contained in subdivision (d).

### **112165. Rules and regulations**

- (a) The department shall adopt regulations regarding all of the following:
  - (1) The classification and minimum requirements for growing and harvesting areas, for relaying and depuration procedures, and for aquaculture facilities that are used for the cultivation and production of shellfish.
  - (2) Specifications for plant facilities and for the harvesting, transporting, storing, handling, packing, and repacking of shellfish.
  - (3) Fees.
- (b) The department shall adopt regulations by January 1, 1999, to interpret and enforce the provisions of this chapter. The regulations shall be adopted by the department in the manner

prescribed by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The regulations shall conform, so far as possible, to the standards or procedures established in the guidelines adopted by the National Shellfish Sanitation Program that pertain to the evaluation of shellfish-growing areas and handling facilities, but shall provide for regulating other wastes or contaminants not covered by the guidelines adopted by the National Shellfish Sanitation Program that would render shellfish unsafe or unfit for human consumption. If the department adopts standards or procedures that exceed standards or procedures established in the guidelines adopted by the National Shellfish Sanitation Program, the department shall provide a written finding describing the public health need for those standards and procedures in the rulemaking process.

#### **112170. Sanitary Surveys; Issuance of Certificate**

(a) The director, or the director's duly authorized agent, shall conduct sanitary surveys of any shellfish growing water as deemed necessary to assure each of the following:

(1) Any shellfish grown in the water is safe as an article of food and meets bacteriological, chemical, and toxicologic standards as prescribed by regulation.

(2) Any shellfish grown in prohibited or restricted areas is either relayed to or depurated in approved water for a period of time as necessary to meet bacteriological, chemical, and toxicologic standards, as prescribed by regulation.

(3) For good cause shown, a shellfish grower or harvester may request the resurvey of restricted or unapproved growing water, and the director, or the director's duly authorized agent, shall conduct the sanitary resurvey.

(b) If it is found that the shellfish and growing water are in compliance with the regulations promulgated under this chapter, the director shall issue a certificate attesting to the compliance to the lawful grower or harvester of the shellfish.

#### **112175. Limitations on Commercial Shellfish Cultivation or Harvesting From Naturally Occurring Populations**

It is unlawful for any person to engage in commercial shellfish cultivation or the harvesting for human consumption of shellfish from naturally occurring populations, except as provided for in Sections 5670, 7850, 8500, and 15101 of the Fish and Game Code and in regulations adopted by the department pursuant to this chapter, with regard to growing areas, relaying and depuration procedures, and aquaculture facilities.

#### **112180. Authority to Conduct Inspections and Obtain Samples; Certificate Holder to be Given Opportunity to Show Compliance**

The director, or the director's duly authorized agent, may, at any reasonable hour of the day, do any of the following:

(a) Enter and inspect any facility or area used for cultivation, production, depuration, processing, transporting, or sale of shellfish.

(b) Obtain samples of water and shellfish. Upon request, split samples shall be given to the person from whose property the samples were obtained.

(c) Inspect all shellfish plants and the practices followed in the handling and packaging of shellfish. If it is found that the operator is complying with the regulations promulgated under this chapter, the director shall issue a certificate attesting to the compliance.

(d) Cause a reinspection to be made at any time and may revoke the certificate upon refusal of the operator to permit an inspection or free access at all reasonable hours, or upon a finding that the plant is not being operated in compliance with the regulations promulgated under this chapter.

(e) No revocation, suspension, annulment, or withdrawal of any certificate is lawful unless, prior to the institution of department proceedings, the department gave notice by mail, to the certificate holder, of facts or conduct that warrants the intended action, and the certificate holder was given an opportunity to show compliance with all lawful requirements for the retention of the certificate, pursuant to Section 112265. This section does not preclude the department from taking immediate action in accordance with subdivision (e) of Section 112160.

**112185. Taking Shellfish From Unsuitable Area**

It is unlawful for any person to take, sell, offer, or hold for sale any shellfish from an area declared by the director to be unsuitable for harvesting for human consumption, without complying with all regulations adopted by the department to ensure that the shellfish have been purified.

The intent of this section is not to prohibit the transplanting of shellfish from restricted or prohibited growing areas, if permission for the transplanting is first obtained from the Department of Fish and Game pursuant to Section 237 of Title 14 of the California Code of Regulations.

**112190. Sale of Shellfish Not Harvested From Certified Growing Area**

It is unlawful for any person to sell, offer, or hold for sale any shellstock or shucked shellfish that has not been harvested from a growing area which has been certified by the department or that has not been purified in accordance with Section 112170.

**112195. Sale of Shellfish Not Handled In Accordance With Chapter And Regulations**

It is unlawful for any person to sell, offer, or hold for sale any shellstock or shucked shellfish that has not been handled and packaged in accordance with specifications under this chapter, and regulations adopted pursuant to this chapter.

**112200. Sale of Shellfish Where Facilities Do Not Comply With Regulations**

It is unlawful for any person to sell, offer, or hold for sale any shellfish where the facilities for packaging and handling of the shellfish do not comply with regulations adopted by the department under this chapter.

**112205. Operation of Plant Without Certificate**

It is unlawful for any person to operate a shellfish plant engaged in the handling and packaging of shellfish, either shucked or in the shell, without a valid certificate issued by the department for each plant or place of business.

**112210. Labeling**

It is unlawful for any person to sell, offer, or hold for sale any shellstock or shucked shellfish without a label that bears a valid certificate number and is in compliance with Chapter 4 (commencing with Section 110290) of Part 5.

**112215. Containers to Bear Valid Certificate Number**

It is unlawful for any person to sell, offer, or hold for sale any shellfish not in a container bearing a valid certificate number from a state or a nation whose shellfish certification program conforms to the then current Manual of Recommended Practice for Sanitary Control of the Shellfish Industry, issued by the United States Public Health Service.

**112220. Exceptions to Labeling Requirements**

The provisions of Sections 112210 and 112215, with respect to labeling requirements, shall not apply to any of the following:

- (a) Shellstock held in dry storage under refrigerated conditions not for shipment or sale.
- (b) Shellstock sold on premises when the sale is the ultimate point of sale.

**112225. Condemnation or Seizure Of Shellfish**

Any shellfish that are held or offered for sale at retail or for human consumption, and that have not been handled and packaged in accordance with the specifications fixed by the department under this chapter, or that are not in a certified container as provided in Sections 112210 and 112215, or that are otherwise found by the director to be unfit for human consumption, are subject to immediate condemnation, seizure, and confiscation by the director or the director's duly authorized agent. The shellfish shall be held, destroyed, or otherwise disposed of as directed by the director.

**112230. Suspension or Revocation Of Certificate**

The director may suspend or revoke any certificate issued pursuant to this chapter for any violation of this chapter or the regulations adopted pursuant thereto.

**Article 3. Fees****112235. Amount**

The department shall charge and collect a fee for each certificate issued. The amount of the fee shall be established by regulation.

**Article 4. Penalties****112240. Violation of Chapter As Misdemeanor**

Any person who willfully violates any provision of this chapter, or any regulation adopted pursuant to this chapter, is guilty of a misdemeanor and shall, if convicted, be subject to imprisonment for not more than six months in the county jail or a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or both. If the violation is committed after a previous conviction under this section that has become final, or if the violation is committed with the intent to defraud or mislead, the person shall be subject to imprisonment for not more than one year in the county jail or a fine of not more than one thousand dollars (\$1,000), or both.

**112245. Disposition of Fines Collected**

One-half of all fines collected by any court or judge for any violation of any provision of this chapter shall be paid into the State Treasury to the credit of the General Fund.

**Article 5. Proceedings****112250. Initiation of Judicial Proceedings**

(a) The Attorney General, any district attorney, or any city attorney to whom the department reports any violation of this chapter shall begin appropriate proceedings in the proper court.

(b) Before any alleged violation of this chapter is reported to the Attorney General, a district attorney, or a city attorney for the institution of a criminal proceeding, the person against whom this proceeding is contemplated may be given appropriate notice and an opportunity to show cause why he or she should not be prosecuted and to present additional facts that may mitigate the action. The showing may be presented either orally or in writing, in person, or by attorney.

**112255. Notice of Warning for Minor Violations**

The department is not required to institute proceedings under this chapter for minor violations of this chapter, if the department believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

**112260. Burden of Proof With Respect to Exemptions or Exceptions**

When the state asserts a violation of this chapter, the state need not negate any exemption or exception from the requirements of this chapter in any leading, or in any trial, hearing, or other proceeding. The burden of proof with respect to any exemption or exception rests upon the person claiming its benefits.

**112265. Administrative Hearings; Notice; Opportunity to Be Heard; Final Decisions**

(a) Except to the extent otherwise provided in Section 112160 and subdivision (e) of Section 112180, or when a violation is asserted pursuant to Section 112240, when the department asserts a violation of this chapter, all affected persons shall be afforded an opportunity for an administrative hearing after 20 days notice.

(b) The notice shall include all of the following:

- (1) A statement of the time, place, and nature of the hearing.
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held.

- (3) A reference to the particular sections of the statutes, regulations, and rules involved.
- (4) A short and plain statement of the matters asserted.
- (c) Opportunity shall be afforded all persons to respond and present evidence on the issues involved.
- (d) Hearings authorized or required by this chapter shall be conducted by the department or any agent as the department may designate for that purpose.
- (e) Oral proceedings or any part thereof shall be transcribed at the request of any person. The person requesting the transcription shall bear the cost of the transcript.
- (f) Final decisions or orders adverse to any person shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law that shall be separately stated. Persons shall be notified either personally or by mail of any decision or order.

#### **112270. Proceedings In Lieu of Administrative Proceedings**

In lieu of administrative proceedings pursuant to Section 112265, the department may proceed under Section 119940.

#### **112275. Judicial Review; Exhaustion of Administrative Remedies**

A person who has exhausted all administrative remedies available within the department and who is aggrieved by a final decision or order is entitled to judicial review pursuant to this chapter.

#### **112280. Effective Term of Regulations**

All regulations applicable to this chapter, and currently in effect at the time this chapter takes effect, shall remain in effect until the department adopts regulations pursuant to Section 112165.

### **PUBLIC RESOURCES CODE**

#### **DIVISION 1. ADMINISTRATION**

#### **CHAPTER 4. AQUACULTURE DEVELOPMENT**

##### **825. Title of Chapter**

This chapter shall be known and may be cited as the California Aquaculture Development Act.

##### **826. Encouraging Aquaculture**

The Legislature finds and declares that it is in the interest of the people of the state that the practice of aquaculture be encouraged in order to augment food supplies, expand employment, promote economic activity, increase native fish stocks, enhance commercial and recreational fishing, and protect and better use the land and water resources of the state.

##### **827. Purpose of This Chapter**

The purpose of this chapter is to establish a policy and program toward improving the science and practice of aquaculture as a means of expanding aquaculture industry and related economic activity in the state.

##### **828. Aquaculture**

As used in this chapter, "aquaculture" means the culture and husbandry of aquatic organisms, including, but not limited to, fish, shellfish, mollusks, crustaceans, kelp, and algae. Aquaculture shall not mean the culture and husbandry of commercially utilized inland crops, including, but not limited to, rice, watercress, and bean sprouts.

##### **829. Director**

As used in this chapter, "director" means the Director of the Department of Fish and Game.

##### **830. Department**

As used in this chapter, "department" means the Department of Fish and Game.

## **DIVISION 20. CALIFORNIA COASTAL ACT**

### **CHAPTER 2. DEFINITIONS**

#### **30100.2. Aquaculture**

"Aquaculture" means a form of agriculture as defined in Section 17 of the Fish and Game Code. Aquaculture products are agricultural products, and aquaculture facilities and land uses shall be treated as agricultural facilities and land uses in all planning and permit-issuing decisions governed by this division.

### **CHAPTER 5. STATE AGENCIES**

#### **Article 2. State Agencies**

#### **30411. Wetland Restoration; Determination of Aquaculture Sites, etc.**

(a) The Department of Fish and Game and the Fish and Game Commission are the principal state agencies responsible for the establishment and control of wildlife and fishery management programs and the commission shall not establish or impose any controls with respect thereto that duplicate or exceed regulatory controls established by these agencies pursuant to specific statutory requirements or authorization.

(b) The Department of Fish and Game, in consultation with the commission and the Department of Boating and Waterways, may study degraded wetlands and identify those which can most feasibly be restored in conjunction with development of a boating facility as provided in subdivision (a) of Section 30233. Any study conducted under this subdivision shall include consideration of all of the following:

(1) Whether the wetland is so severely degraded and its natural processes so substantially impaired that it is not capable of recovering and maintaining a high level of biological productivity without major restoration activities.

(2) Whether a substantial portion of the degraded wetland, but in no event less than 75 percent, can be restored and maintained as a highly productive wetland in conjunction with a boating facilities project.

(3) Whether restoration of the wetland's natural values, including its biological productivity and wildlife habitat features, can most feasibly be achieved and maintained in conjunction with a boating facility or whether there are other feasible ways to achieve these values.

(c) The Legislature finds and declares that salt water or brackish water aquaculture is a coastal-dependent use which should be encouraged to augment food supplies and to further the policies set forth in Chapter 4 (commencing with Section 825) of Division 1. The Department of Fish and Game may identify coastal sites it determines to be appropriate for aquaculture facilities. If the department identifies these sites, it shall transmit information identifying the sites to the commission and the relevant local government agency. The commission, and where appropriate, local governments, shall, consistent with the coastal planning requirements of this division, provide for as many coastal sites identified by the Department of Fish and Game for any uses that are consistent with the policies of Chapter 3 (commencing with Section 30200) of this division.

(d) Any agency of the state owning or managing land in the coastal zone for public purposes shall be an active participant in the selection of suitable sites for aquaculture facilities and shall make the land available for use in aquaculture when feasible and consistent with other policies of this division and other provisions of law.

## **PENAL CODE**

### **PART 1. OF CRIMES AND PUNISHMENTS**

#### **TITLE 13. OF CRIMES AGAINST PROPERTY**

##### **CHAPTER 5. LARCENY**

###### **487. Grand Theft**

Grand theft is theft committed in any of the following cases:

(a) When the money, labor, or real or personal property taken is of a value exceeding four hundred dollars (\$400) except as provided in subdivision (b).

(b) Notwithstanding subdivision (a), grand theft is committed in any of the following cases:

(1) (A) When domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops are taken of a value exceeding two hundred fifty dollars (\$250).

(B) For the purposes of establishing that the value of avocados or citrus fruit under this paragraph exceeds two hundred fifty dollars (\$250), that value may be shown by the presentation of credible evidence which establishes that on the day of the theft avocados or citrus fruit of the same variety and weight exceeded two hundred fifty dollars (\$250) in wholesale value.

(2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or other aquacultural products are taken from a commercial or research operation which is producing that product, of a value exceeding two hundred fifty dollars (\$250).

(3) Where the money, labor, or real or personal property is taken by a servant, agent, or employee from his or her principal or employer and aggregates nine hundred fifty dollars (\$950) or more in any 12 consecutive month period.

(c) When the property is taken from the person of another.

(d) When the property taken is any of the following:

(1) An automobile, horse, mare, gelding, any bovine animal, any caprine animal, mule, jack, jenny, sheep, lamb, hog, sow, boar, gilt, barrow, or pig.

(2) A firearm.

(e) This section shall become operative on January 1, 1997.

## **REVENUE AND TAXATION CODE**

### **DIVISION 1. PROPERTY TAXATION**

#### **PART 1. GENERAL PROVISIONS**

##### **CHAPTER 1. CONSTRUCTION**

###### **107. "Possessory Interests"; Security for Taxes "Possessory Interests" Means The Following:**

"Possessory interests" means the following:

(a) Possession of, claim to, or right to the possession of land or improvements that is independent, durable, and exclusive of rights held by others in the property, except when coupled with ownership of the land or improvements in the same person. For the purposes of this subdivision:

(1) "Independent" means the ability to exercise authority and exert control over the management or operation of the property or improvements, separate and apart from the policies, statutes, ordinances, rules, and regulations of the public owner of the property or improvements. A possession or use is independent if the possession or operation of the property is sufficiently autonomous to constitute more than a mere agency.

(2) "Durable" means for a determinable period with a reasonable certainty that the use, possession, or claim with respect to the property or improvements will continue for that period.

(3) "Exclusive" means the enjoyment of a beneficial use of land or improvements, together with the ability to exclude from occupancy by means of legal process others who may interfere with

that enjoyment. For purposes of this paragraph, "exclusive use" includes the following types of use in property:

- (A) Sole occupancy or use of property or improvements.
  - (B) Use as a cotenant.
  - (C) Concurrent use by a person who has a primary or prevailing right to use property or improvements at any time.
  - (D) Concurrent uses by persons making qualitatively different uses of property or improvements.
  - (E) Concurrent use by persons engaged in similar uses that diminish the quantity or quality of the property or improvements.
  - (F) Concurrent use that does not diminish the quantity or quality of the property or improvements, if the number of those concurrent use grants is restricted.
- A use of property or improvements that does not contain one of the elements in subparagraphs (A) to (F), inclusive, shall be rebuttably presumed to be a nonexclusive use.

(b) Taxable improvements on tax-exempt land.

Any possessory interest may, in the discretion of the county board of supervisors, be considered as sufficient security for the payment of any taxes levied thereon and may be placed on the secured roll.

Leasehold estates for the production of gas, petroleum and other hydrocarbon substances from beneath the surface of the earth, and other rights relating to these substances which constitute incorporeal hereditaments or profits a prendre, are sufficient security for the payment of taxes levied thereon. These estates and rights shall not be classified as possessory interests, but shall be placed on the secured roll.

If the tax on any possessory interest or leasehold estate for the production of gas, petroleum and other hydrocarbon substances is unpaid when any installment of secured taxes become delinquent, the tax collector may use those collection procedures which are available for the collection of assessments on the unsecured roll.

If the tax on any possessory interest or leasehold estate for the production of gas, petroleum and other hydrocarbon substances remains unpaid at the time set for the declaration of default for taxes carried on the secured roll, the possessory interest tax together with any penalty and costs which may be accrued thereon while on the secured roll shall be transferred to the unsecured roll.

#### **107.6 Statement to Private Contracting Party Concerning Taxable Interest**

(a) The state or any local public entity of government, when entering into a written contract with a private party whereby a possessory interest subject to property taxation may be created, shall include, or cause to be included, in that contract, a statement that the property interest may be subject to property taxation if created, and that the party in whom the possessory interest is vested may be subject to the payment of property taxes levied on the interest.

(b) Failure to comply with the requirements of this section shall not be construed to invalidate the contract. The private party may recover damages from the contracting state or local public entity, where the private party can show that without the notice, he or she had no actual knowledge of the existence of a possessory interest tax.

The private party is rebuttably presumed to have no actual knowledge of the existence of a possessory interest tax.

In order to show damages, the private party need not show that he or she would not have entered the contract but for the failure of notice.

(c) For purposes of this section:

- (1) "Possessory interest" means any interest described in Section 107.
- (2) "Local public entity" shall have the same meaning as that set forth in Section 900.4 of the Government Code and shall include school districts and community college districts.
- (3) "State" means the state and any state agency as defined in Section 11000 of the Government Code and Section 89000 of the Education Code.
- (4) "Damages" mean the amount of the possessory interest tax for the term of the contract.



## **PART 2. ASSESSMENT**

### **CHAPTER 3. ASSESSMENT GENERALLY**

#### **Article 2.5. Change in Ownership Reporting**

##### **480.3. Preliminary Change of Ownership Reports**

(a) Each county assessor and recorder shall make available, without charge and upon request, a form entitled "Preliminary Change of Ownership Report," which transferees of real property shall complete and may file with the recorder concurrent with the recordation of any document effecting a change in ownership. The form shall be signed by the transferee or an officer of the transferee certifying that the information provided on the form is, to the best of his or her knowledge and belief, true, correct, and complete. The form shall not be signed by an agent acting for a transferee.

(b) If a document evidencing a change in ownership is presented to the recorder for recordation without the concurrent filing of a preliminary change in ownership report, the recorder may charge an additional recording fee of twenty dollars (\$20).

(c) Noncompliance with this section by the transferee shall not delay or preclude the recordation of documents if the additional fee specified in subdivision (b) is tendered.

(d) The authority to obtain information pursuant to this section is in addition to, and not in lieu of, any existing authority the assessor has under this article.

(e) In cases where the county tax collector files purchaser's deeds with respect to a sale for defaulted taxes, the information given to the assessor pursuant to Sections 3716 and 3811 shall be deemed to constitute compliance with this section.

(f) The filing of a preliminary change of ownership report or the payment of an additional recording fee shall not be required of any intermediate transferee of property, or of any trustee issuing a trustee's deed to the mortgagee or beneficiary of a mortgage or deed of trust, or his or her assignees, pursuant to the exercise of a power of sale contained in a deed of trust or mortgage pursuant to Chapter 2 (commencing with Section 2920) of Title 14 of Part 4 of Division 3 of the Civil Code. For purposes of this subdivision, "intermediate transferee" means any transferee who is acting as both a transferee and the transferor of the same property as part of a series of simultaneous transfers which affect that property and who records the transfer documents and any other recorded documents related to the transfer in consecutive order at one time.

(g) Except as prescribed in subdivisions (e) and (f), this section shall apply to changes of ownership occurring on or after July 1, 1985.

##### **480.5. Report to Assessor Following Conveyance of Right to Use Tax-Exempt Property**

(a) Every owner of tax-exempt real property shall report to the local assessor the creation, renewal, sublease, or assignment of any lease, sublease, license, use permit, or other document which conveys the right to use that real property within 60 days of the transaction. The report shall include all of the following:

(1) The name and address of the owner.

(2) The names and addresses of all other parties to the transaction, including an identification of each party and of his or her possessory interest.

(3) The type of transaction, whether creation, renewal, sublease, or assignment.

(4) A description of the property.

(5) The date of the transaction.

(6) The terms of the transaction, including all of the following:

(A) The consideration for the possessory interest, whether paid in money or otherwise.

(B) The term of the possessory interest, including any renewal or extension options.

(C) If a sublease, the original term, the remaining term, and the consideration paid for the master lease.

(D) If an assignment, the original term, the remaining term, and the consideration paid for the underlying lease.

(b) This section shall be applicable only in those counties in which the board of supervisors, by ordinance or resolution, specifically elects to have this section applicable in the county.

Note: This leaflet does not provide reference to other Sections of the Revenue and Taxation Code that relate to tax preference for aquaculture when determining income tax liability.

## **FISH AND GAME COMMISSION REGULATIONS TITLE 14 CALIFORNIA CODE OF REGULATIONS**

### **DIVISION 1. FISH AND GAME COMMISSION DEPARTMENT OF FISH AND GAME**

#### **SUBDIVISION 1. FISH, AMPHIBIANS & REPTILES**

#### **CHAPTER 6. FISH, COMMERCIAL**

##### **165. Harvesting of Kelp and Other Aquatic Plants**

(a) General License Provisions. Pursuant to the provisions of Section 6651 of the Fish and Game Code, no kelp or other aquatic plants may be harvested for commercial purposes except under a revocable license issued by the department.

(1) Who Shall be Licensed. Each company or individual harvesting kelp and other aquatic plants for industrial, human consumption or aquaculture purposes shall apply each year for a license on forms provided by the department. Application forms and a list of laws and regulations governing the harvest of kelp and other aquatic plants are available on request from the department's Marine Region, 20 Lower Ragsdale Drive, Suite 100, Monterey, CA 93940, and from the department's field offices in Eureka, Belmont, Los Alamitos and San Diego.

(2) Cost of License. See section 6651 of the Fish and Game Code.

(3) Where to Submit Applications. Application forms, together with the fee authorized by Section 6651 of the Fish and Game Code, shall be submitted to the department's Los Alamitos office, 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720.

(4) License Limitation. All provisions of sections 6650-6680 of the Fish and Game Code, and sections 165 and 165.5 of the commission regulations shall become a condition of all licenses issued under this section to be fully performed by the holders thereof, their agents, servants, employees or those acting under their direction or control.

(b) General Harvesting Provisions.

(1) Weighing of Kelp. A kelp harvester shall determine the weight of harvested kelp or other aquatic plants upon landing or delivery to the harvester's place of business. The harvester may determine the weight of harvested kelp or other aquatic plants using either direct weighing or a volume conversion that has been approved by the department. If the weight is determined by a certified or licensed weighmaster, the harvester shall obtain a receipt and maintain the receipt in the landing record required under subsection (b)(3) below.

(2) Harvesting Records. Every person harvesting kelp and other aquatic plants and licensed pursuant to section 6650 of the Fish and Game Code shall keep a book or books recording the following:

(A) Category of plants harvested as defined in Section 165(c), (d) and (e).

(B) The wet weight of harvested kelp or other aquatic plants recorded in pounds or tons (1 ton = 2000 pounds).

(C) Name and address of the person or firm to whom the plants are sold, unless utilized by the harvester. The book(s) shall be open at all times for inspection by the department.

(3) Landing Records. Records of landing shall be prepared by all harvesters licensed pursuant to Section 6650 of the Fish and Game Code. Records of landing shall be made in triplicate using forms FG 113 (Rev. 1/97, see Appendix A) and FG 114 (Rev. 1/07, see Appendix A). The landing records shall show:

(A) The wet weight of all aquatic plants harvested in units as defined in subsection (b)(2)(B) above.

(B) Name of harvester.

(C) Department of Fish and Game kelp harvester number.

(D) Dates of landing and report period.

(E) Kelp bed number and, if applicable, harvest control area or marine protected area where plants were harvested.

(F) A duplicate copy of the landing record shall be kept by a kelp harvester for a period of one year and shall be available for inspection at any time within that period by the department. A kelp harvester who harvests kelp from a harvest control area established under subsection (c)(4)(E) below or from a marine protected area established under subsection 632(b) shall maintain a copy of the landing record on board the harvest vessel for all harvesting conducted during that harvest control period. The original and one copy of the record shall be delivered to the department at the address indicated within 10 days after the close of each month, with the specified royalty required for all kelp and other aquatic plants harvested. Failure to submit the required landing record and royalty fees within the prescribed time limit are grounds for revocation of the harvester's license.

(4) No eel grass (*Zostera*) or surf grass (*Phyllospadix*) may be cut or disturbed.

(5) No kelp or other aquatic plant may be harvested in a state marine reserve or state marine park as per subsection 632(a). Commercial harvest of kelp or other aquatic plants may be limited in state marine conservation areas as per subsection 632(b).

(6) It is unlawful to cause or permit waste of any kelp or other aquatic plants taken in the waters of this state or to take, receive or agree to receive more kelp or other aquatic plants than can be used without waste or spoilage.

(c) Harvesting of *Macrocystis* and *Nereocystis* (giant and bull kelp). In this subsection, kelp means both giant and bull kelp.

(1) A kelp harvester may harvest kelp by cutting and removing portions of attached kelp or by collecting unattached kelp.

(2) A kelp harvester may not cut attached kelp at a depth greater than four feet below the surface of the water at the time of cutting.

(3) No kelp received aboard a harvesting vessel shall be allowed to escape from the vessel or be deposited into the waters of this state.

(4) If, at any time, the commission finds that the harvesting of kelp will tend to destroy or impair any kelp bed or beds, or parts thereof, or tend to impair or destroy the supply of food for fish or marine mammals, the commission may limit or prohibit the harvest of kelp within a bed or portion of a bed for any length of time.

(A) In beds north of Point Montara, *Nereocystis* (bull kelp) may only be taken by hand harvesting. No mechanical harvesters of any kind are allowed.

(B) Between April 1 and July 31, a kelp harvester may not harvest bull kelp from a nonleased kelp bed that lies partially or totally within the boundary of the Monterey Bay National Marine Sanctuary extending from Santa Rosa Creek, San Luis Obispo County, northward to Rocky Point, Marin County. This subsection does not preclude the removal of bull kelp from beaches within the Monterey Bay National Marine Sanctuary during the seasonal closure.

(C) Prior commission approval of a kelp harvest plan is necessary before a kelp harvester may use a mechanical harvester to harvest giant kelp in a nonleased kelp bed north of Santa Rosa Creek, San Luis Obispo County. For approval of a kelp harvest plan, a harvester must identify how a mechanical harvester will be used while avoiding: 1) repetitive harvest from individual giant kelp plants; 2) harvest of bull kelp from those portions of kelp beds that contain both giant kelp and bull kelp; and 3) harvest giant kelp near sea otter rafting sites used by female sea otters with dependent pups.

(D) A kelp harvester may not harvest kelp in that portion of kelp bed 220 in Monterey County that lies in the area bounded by the mean high tide line, a line extending due north from the tip of the Monterey breakwater and latitude 36° 36.83 N.

(E) With a finding as determined in subsection (c)(4) above, the commission may designate, through emergency regulation, a nonleased kelp bed or portion of a bed as a harvest control area for a specified period of time. The commission shall set a cumulative harvest tonnage limit for each kelp harvester that may not be exceeded while harvesting within the control area during any consecutive 7-day period. The department shall maintain a list of active harvest control areas, their effective time period, and their cumulative harvest tonnage limit on its web page ([www.dfg.ca.gov](http://www.dfg.ca.gov)). The same information may be obtained by contacting the Marine Region office at 20 Lower Ragsdale Drive, Suite 100, Monterey, CA 93940.

<i>Bed No.</i>	<i>Square Miles</i>
10	0.00
15	0.04
22	0.05
24	0.05
203	0.00
206	0.04
224	0.06
225	0.00
226	0.00
301	0.00
302	0.00
303	1.33
304	0.89
305	1.11
306	1.03
307	0.93
310	0.00
311	<u>0.00</u>
Total	5.53

(6) Only a lessee authorized by the commission may harvest kelp from the following beds:

<i>Bed No.</i>	<i>Square Miles</i>
308	0.20
309	0.14
312	<u>0.20</u>
Total	0.54

(7) In addition to the license fee, a kelp harvester shall pay a royalty of \$1.71 for each ton (2,000 pounds) of wet kelp harvested from a nonleased bed.

(d) Harvesting of marine plants of the genera Gelidium, Pterocladia, Gracilaria, Iridaea, Gloiopeltisor Gigartinawhich are classified as agar-bearing plants.

(1) General Provisions.

(A) All agar-bearing plants must be harvested by cutting, except that drift or loose plants may be picked up by the harvester. Agar-bearing plants may be cut no closer than two inches to the holdfast and no holdfast may be removed or disturbed. All agar-bearing plants which are removed from a bed must be taken from the water for weighing and processing.

(B) While harvesting agar-bearing plants, it is unlawful to harvest abalone or to have abalone harvesting equipment in possession.

(C) License numbers of the harvesters will be displayed on both sides of the boat from which they are operating in 10-inch black numbers on a white background.

(D) A harvester may use conventional underwater diving gear or SCUBA when harvesting agar-bearing plants.

(2) Kelp Drying Permits. Pursuant to section 6653.5 of the Fish and Game Code, no company or individuals shall reduce the moisture content or otherwise dry agar-bearing plants harvested from waters of the state except under the authority of a kelp drying permit issued by the department. Drying permits shall be issued under the following conditions:

(A) Where Issued. Requests for kelp drying permits shall be submitted to the Department of Fish and Game at the address listed in section 165(a)(3).

(B) Cost of Permit. See subsection 699(b) of these regulations for the fee for this permit.

(C) Permit Review. The department shall return permit application forms to the applicant within three working days of receipt.

(D) Duration of Permits. Except as otherwise provided, kelp drying permits shall be valid for a term of one year from date of issue.

(E) Weighing of Kelp. All agar-bearing marine plants shall be weighed upon landing pursuant to the provisions of subsection (b)(1) of these regulations.

(F) Plant Delivery. Every person taking delivery of agar-bearing marine plants for drying purposes from persons licensed pursuant to section 6650 of the Fish and Game Code or harvesters drying their own plants shall keep a book or books recording the following:

1. A full and correct record of all agar-bearing plants received from other licensed agar harvesters or taken by permittee.
2. Names of the different species.
3. The number of pounds received.
4. Name, address and kelp harvester number of the person from whom the agar-bearing plants were received. The book(s) shall be open at all times for inspection by the department.

(G) Landing Receipts. Receipts shall be issued by all kelp drying permittees to harvesters licensed pursuant to subsection (b)(3) of these regulations and shall show:

1. Price paid.
2. Department origin block number where the agar-bearing plants were harvested.
3. Such other statistical information the department may require.

(H) The original signed copy of receipt shall be delivered to the agar harvester at the time of purchase or receipt of the agar-bearing plants. The duplicate copy shall be kept by the kelp drying permittee for a period of one year and shall be available for inspection at any time within that period by the department, and the triplicate shall be delivered to the department at the address indicated within 10 days after the close of each month, with a royalty of \$17.00 per wet ton (2,000 lbs.) for all agar-bearing seaweed received. Failure to submit the required landing receipts and royalty fees within the prescribed time limit is grounds for revocation of the permittee's drying permit.

(e) Harvesting of marine plants, including the genera *Porphyra*, *Laminaria*, *Monostrema*, and other aquatic plants utilized fresh or preserved as human food and classified as edible seaweed.

(1) General Provisions.

(A) Edible varieties of marine plants must be harvested by cutting or picking, except that drift or loose plants may be picked up by the harvester. All harvested plants must be processed.

(B) Edible seaweed may be harvested from state waters throughout the year, except as provided under section 164.

(C) While harvesting edible seaweed, it is unlawful to harvest abalone or to have abalone harvesting equipment in possession.

(D) A harvester may use conventional underwater diving gear or SCUBA while harvesting edible seaweed.

(2) Harvest of Bull Kelp for Human Consumption. Notwithstanding subsection 165(c) (5)(A), persons operating under the authority of an edible seaweed harvesters license may take, not to exceed, 2 tons (4,000 lbs) of bull kelp per year. The entire plant may be harvested.

(3) Weighing of Edible Marine Plants. All edible marine plants shall be weighed pursuant to the provisions of subsection (b)(1) of these regulations and landing receipts in duplicate issued as per subsection (b)(3).

(4) The original copy of the receipt shall be delivered to the department at the address indicated within 10 days after the close of each month with a royalty of \$24 per wet ton (2,000 lbs.) of edible marine plants harvested from state waters other than San Francisco Bay and Tomales Bay.

(f) All Other Species of Kelp.

(1) Applicant shall apply to the commission, outlining the species to be harvested, amount and location. The commission may set conditions and amount of royalty after review of the application.

#### **165.5. Lease of Kelp Beds for Exclusive Harvest of *Macrocystis* and *Nereocystis*.**

(a) The commission may lease to any person the exclusive privilege to harvest kelp in any designated kelp bed or beds, or part thereof described in subsection (j). In this section, kelp means giant kelp, bull kelp, or both.

(b) A current list of kelp beds considered by the commission to be available for leasing may be obtained through written request to the department's Marine Region at 20 Lower Ragsdale Drive,

Suite 100, Monterey, CA 93940. Any person desiring to lease the exclusive privilege of harvesting kelp shall make a written application to the Fish and Game Commission, 1416 Ninth Street, Sacramento, CA 95814. The application for kelp bed lease shall include:

(1) The number of the designated bed or beds as shown in subsection (j), a description of the kelp bed or portion of the kelp bed requested and the designated number of square miles in each bed or portion thereof.

(2) A minimum deposit of \$2,565 per square mile for kelp beds lying south of Point Arguello and \$1,368 per square mile for kelp beds lying north of Point Arguello. (The deposit shall be returned to the applicant if a lease is not executed.)

(3) A detailed development plan for the proposed kelp bed lease showing the intended use, the manner of harvesting and transporting the kelp and the amount of kelp the lessee proposes to harvest during each of the next five years.

(4) The financial capabilities of the lessee to carry out the proposed plan of development. The department shall evaluate the submitted plans, and provide its evaluation to the commission.

(5) Applicants for the lease of Kelp Beds 300-312 shall, in addition to the above requirements, submit evidence of a scientifically acceptable survey of the requested kelp bed, conducted within one year of the date of the application, showing the extent of the kelp bed and the quantity (biomass) of kelp present. Evidence of such a survey must be submitted annually prior to beginning harvest. Harvest of bull kelp from leased beds shall be limited to not more than 15 percent of the bull kelp biomass revealed by the survey.

(c) Kelp leases may be awarded to applicants determined by the commission to possess the capabilities to harvest and utilize kelp in a manner beneficial to the state.

(1) In case more than one application is received for the lease of a specified kelp bed or beds, the lease shall be awarded to the highest qualified bidder.

(2) Bids tendered for the exclusive right to harvest kelp from designated kelp beds will be for the dollar amount of royalty to be paid on each wet ton of kelp harvested. The minimum acceptable bid will be for a royalty rate of no less than \$1.71 per wet ton of kelp harvested.

(3) The commission may reject any or all applications for the lease of the exclusive privilege to harvest kelp, if it deems the rejection to be in the public interest.

(d) If the specified kelp harvesting area applied for is found to be available for lease, and that the lease would be in the public interest, the commission shall have legal notices published in a newspaper of general circulation in each county where the kelp bed, or any part thereof, is located. The department shall, in addition, notify by mail all current holders of kelp harvesting licenses that a kelp lease is being considered.

(e) Upon termination of a kelp bed lease for any reason, the commission shall notify all current holders of kelp licenses of the availability of such bed(s) for lease.

(f) Kelp bed leases shall be awarded for a maximum term of 20 years.

(g) The royalty rate for kelp harvested from leased kelp beds shall be no less than \$1.71 per wet ton of kelp harvested from such beds. A nonrefundable advance payment computed on the basis of the harvest of 800 tons of kelp annually times the bid royalty rate per square mile for kelp beds located north of Point Arguello and the harvest of 1,500 tons of kelp annually times the bid royalty rate per square mile for beds lying south of that point is due and payable to the department on January 1 each year. Kelp harvested from each bed during the calendar year will be credited against the advance payment at the specified royalty rate until the deposit has been depleted. Kelp harvested from each bed in excess of the amount covered by the advance deposit shall be assessed at the basic royalty rate established by Section 165(c)(5).

(h) Each kelp lease shall specify a period prior to expiration when renewal of the lease may be requested by lessee. If during the notification period the lessee successfully demonstrates to the commission that all conditions of the lease have been met, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee. If terms of a lease renewal are not agreed upon prior to termination of a lease agreement, the commission shall advertise for bids on the individual kelp beds comprising the lease. If a request for renewal is not made during the specified period by the lessee, the commission shall advertise for bids on the individual kelp beds comprising the lease.

(i) Notwithstanding the provisions of subsections (f) and (h), at any time during the term of a lease, a lessee may notify the commission of its desire to enter into a new lease. If the lessee can

successfully demonstrate to the commission that all conditions of its lease have been met and that a new lease would be in the best interest of the state, a new lease may be drawn on terms agreed upon between the two parties, provided a new lease is negotiated for an additional period not to exceed 20 years.

(j) There is established a "Revised Official Map and Description of Kelp Beds, Pt. Arguello to U.S.-Mexico Boundary" dated August 1, 1963 revised March 3, 1967, a new "Official Map and Description of Kelp Beds, Pt. Arguello to Pt. Montara" dated March 3, 1967, and a new map "Official Map and Description of Kelp Beds, Pt. Montara to California-Oregon Boundary" dated June 15, 1995. These maps are based upon U.S. Coast and Geodetic Survey Charts No. 5020, dated April 1961, No. 5302, dated October 12, 1964, and No. 5402, dated September 6, 1965, as filed with the Fish and Game Commission. Beds are described as follows: (all bearings are true bearings)

(1) Mainland Beds (Pt. Arguello to Mexico)

- Bed 1. From a line drawn 264° from the U.S.A.-Mexico International Boundary to a line drawn 270° from the southern tip of San Diego Bay. 0.20 square miles.
- Bed 2. From a line drawn 270° from the southern tip of San Diego Bay to a line drawn 259° from the southern tip of Point Loma. 0.10 square miles.
- Bed 3. From a line drawn 259° from the southern tip of Point Loma to a line drawn 272° from the south jetty of Mission Bay. 2.58 square miles.
- Bed 4. From a line drawn 272° from the south jetty of Mission Bay to a line drawn 283° from Scripps Pier. 2.53 square miles.
- Bed 5. From a line drawn 283° from Scripps Pier to a line drawn 269° from the mouth of the San Dieguito River. 0.00 square miles.
- Bed 6. From a line drawn 269° from the mouth of the San Dieguito River to a line drawn 236° from the middle of Loma Alta Lagoon (at South Oceanside). 1.52 square miles.
- Bed 7. From a line drawn 236° from the middle of Loma Alta Lagoon to a line drawn 215° from the middle of the city of San Onofre. 0.66 square miles.
- Bed 8. From a line drawn 215° from the middle of the city of San Onofre to a line drawn 219° from the middle of San Juan Creek. 1.53 square miles.
- Bed 9. From a line drawn 219° from the middle of San Juan Creek to a line drawn 220° from Abalone Pt. 0.39 square miles.
- Bed 10. From a line drawn 220° from Abalone Pt. to a line drawn 220° from the south jetty of Newport Bay. 0.00 square miles.
- Bed 13. From a line drawn 156° from the San Pedro Breakwater Lighthouse to a line drawn 232° from Pt. Vicente. 0.54 square miles.
- Bed 14. From a line drawn 232° from Pt. Vicente to a line drawn 256° from the southern tip of the Redondo Beach Breakwater. 0.74 square miles.
- Bed 15. From a line drawn 223° from the Santa Monica Pier to a line drawn 156° from Malibu Pt. 0.04 square miles.
- Bed 16. From a line drawn 156° from Malibu Pt. to a line drawn 185° from Pt. Dume. 0.21 square miles.
- Bed 17. From a line drawn 185° from Pt. Dume to a line drawn 207° from Pt. Mugu. 0.62 square miles.
- Bed 18. From a line drawn 217° from the middle of the mouth of Ventura River to a line drawn 214° from Pitas Pt. 0.14 square miles.
- Bed 19. From a line drawn 214° from Pitas Pt. to a line drawn 218° from Rincon Pt. 0.05 square miles.
- Bed 20. From a line drawn 218° from Rincon Pt. to a line drawn 198° from Loon Pt. 0.24 square miles.
- Bed 21. From a line drawn 198° from Loon Pt. to a line drawn 184° from the eastern boundary of the Montecito Hotel (2.4 miles 072° from tip of S.B. Breakwater). 0.19 square miles.
- Bed 22. From a line drawn 184° from the eastern boundary of the Montecito Hotel to a line drawn 166° from the tip of the Santa Barbara Breakwater. 0.05 square miles.

Bed 23.	From a line drawn 166° from the tip of the Santa Barbara Breakwater to a line drawn 195° from the Santa Barbara Lighthouse. 0.10 square miles.
Bed 24.	From a line drawn 195° from the Santa Barbara Lighthouse to a line drawn 197° from the middle of Rogue Creek (Arroyo Burro). 0.05 square miles.
Bed 25.	From a line drawn 197° from the middle of Rogue Creek to a line drawn 185° from the middle of Hope Ranch Creek. 0.18 square miles.
Bed 26.	From a line drawn 185° from the middle of Hope Ranch Creek to a line drawn 176° from Goleta Pt. 0.60 square miles.
Bed 27.	From a line drawn 176° from Goleta Pt. to a line drawn 210° from Coal Oil Pt. 0.43 square miles.
Bed 28.	From a line drawn 210° from Coal Oil Pt. to a line drawn 200° from the Middle of Gato Canyon (about 1.5 miles west of Naples). 0.60 square miles.
Bed 29.	From a line drawn 200° from the middle of Gato Canyon to a line drawn 183° from the middle of Refugio Creek. 0.17 square miles.
Bed 30.	From a line drawn 183° from the middle of Refugio Creek to a line drawn 180° from the middle of Canada de Molino (about 5 miles west of Refugio Creek). 0.39 square miles.
Bed 31.	From a line drawn 180° from the middle of Canada de Molino to a line drawn 180° from the middle of Alegria Canyon (about 3.4 miles west of Gaviota). 0.16 square miles.
Bed 32.	From a line drawn 180° from the middle of Alegria Canyon to a line drawn 180° from Pt. Conception. 2.76 square miles.
Bed 33.	From a line drawn 180° from Pt. Conception to a line drawn 231° from Expada Bluff. 0.97 square miles.
Bed 34.	From a line drawn 231° from Espada Bluff to a line drawn 270° from Pt. Arguello. 0.31 square miles.
Total Area Mainland Beds (Pt. Arguello to Mexico). 19.05 square miles	
(2) Island Beds	
Bed 101.	San Clemente Island. From a line drawn 120° from Pyramid Head to a line drawn 210° from China Pt. 0.66 square miles.
Bed 102.	San Clemente Island. From a line drawn 210° from China Pt. to a line drawn 226° from Seal Cove. 2.39 square miles.
Bed 103.	San Clemente Island. From a line drawn 226° from Seal Cove to a line drawn 0° from Northwest Harbor. 2.89 square miles.
Bed 104.	San Clemente Island. From a line drawn 0° from Northwest Harbor to a line drawn 120° from Pyramid Head. 0.22 square miles.
Bed 105.	Santa Catalina Island. Entire island. 0.75 square miles.
Bed 106.	Santa Barbara Island. Entire island. 0.23 square miles.
Bed 107.	San Nicolas Island. South of a line drawn 75° from the east end to a line drawn 283° from the west end. 1.15 square miles.
Bed 108.	San Nicolas Island. North of a line drawn 283° from the west end to a line drawn 75° from the east end. 2.85 square miles.
Bed 109.	Anacapa Islands. All islands. 0.32 square miles.
Bed 110.	Santa Cruz Island. From a line drawn 86° from San Pedro Pt. to a line drawn 170° from Bowen Pt. 0.64 square miles.
Bed 111.	Santa Cruz Island. From a line drawn 170° from Bowen Pt. to a line drawn 306° from West Pt. 0.61 square miles.
Bed 112.	Santa Cruz Island. From a line drawn 306° from West Pt. to a line drawn 86° from San Pedro Pt. 0.11 square miles.
Bed 113.	Santa Rosa Island. From a line drawn 61° from Skunk Pt. to a line drawn 180° from South Pt. 0.59 square miles.
Bed 114.	Santa Rosa Island. From a line drawn 180° from South Pt. to a line drawn 285° from Sandy Pt. 2.17 square miles.
Bed 115.	Santa Rosa Island. From a line drawn 285° from Sandy Pt. to a line drawn 45° from Carrington Pt. 1.59 square miles.



- Bed 116. Santa Rosa Island. From a line drawn 45° from Carrington Pt. to a line drawn 61° from Skunk Pt. 0.62 square miles.
- Bed 117. San Miguel Island. South of a line drawn 60° from Cardwell Pt. to a line drawn 231° from Pt. Bennett. 1.35 square miles.
- Bed 118. San Miguel Island. North of a line drawn 231° from Pt. Bennett to a line drawn 60° from Cardwell Pt. 1.51 square miles.
- Total Island Beds 20.65 square miles
- (3) Mainland Beds (Pt. Arguello to Point Montara)
- Bed 202. From a line drawn 270° from Pt. Arguello to a line drawn 270° from Point Sal. 0.10 square miles.
- Bed 203. From a line drawn 270° from Point Sal to a line drawn 270° from Pismo Beach Pier. 0.00 square miles.
- Bed 204. From a line drawn 270° from Pismo Beach Pier to a line drawn 180° from Point San Luis. 0.72 square miles.
- Bed 205. From a line drawn 180° from Point San Luis to a line drawn 250° from Point Buchon. 0.64 square miles.
- Bed 206. From a line drawn 250° from Point Buchon to a line drawn 270° from Morro Rock. 0.04 square miles.
- Bed 207. From a line drawn 270° from Morro Rock to a line drawn 190° from Point Estero. 1.46 square miles.
- Bed 208. From a line drawn 190° from Point Estero to a line drawn 230° from Von Helm Rock. 2.61 square miles.
- Bed 209. From a line drawn 230° from Von Helm Rock to a line drawn 200° from San Simeon Point. 2.20 square miles.
- Bed 210. From a line drawn 200° from San Simeon Point to a line drawn 230° from Point Piedras Blancas. 2.02 square miles.
- Bed 211. From a line drawn 230° from Point Piedras Blancas to a line drawn 240° from Salmon Head. 1.50 square miles.
- Bed 212. From a line drawn 240° from Salmon Head to a line drawn 240° from Cape San Martin. 1.26 square miles.
- Bed 213. From a line drawn 240° from Cape San Martin to a line drawn 240° from Lopez Point. 2.14 square miles.
- Bed 214. From a line drawn 240° from Lopez Point to a line drawn 240° from Partington Point. 2.03 square miles.
- Bed 215. From a line drawn 240° from Partington Point to a line drawn 200° from Pfeiffer Point. 0.80 square miles.
- Bed 216. From a line drawn 200° from Pfeiffer Point to a line drawn 200° from Point Sur. 3.08 square miles.
- Bed 217. From a line drawn 200° from Point Sur to a line drawn 270° from Yankee Point. 2.38 square miles.
- Bed 218. From a line drawn 270° from Yankee Point to a line drawn 270° from Point Lobos. 0.50 square miles.
- Bed 219. From a line drawn 270° from Point Lobos to a line drawn 270° from Point Cypress. 1.28 square miles.
- Bed 220. From a line drawn 270° from Point Cypress to a line drawn 000° from Monterey Pier. 1.88 square miles.
- Bed 221. From a line drawn 000° from Monterey Pier to a line drawn 180° from Santa Cruz Pier. 0.90 square miles.
- Bed 222. From a line drawn 180° from Santa Cruz Pier to a line drawn 240° from Sand Hill Bluff. 0.81 square miles.
- Bed 223. From a line drawn 240° from Sand Hill Bluff to a line drawn 240° from Point Ano Nuevo. 0.19 square miles.
- Bed 224. From a line drawn 240° from Point Ano Nuevo to a line drawn 270° from Pescadero Point. 0.06 square miles.
- Bed 225. From a line drawn 270° from Pescadero Point to a line drawn 270° from Point Montara. 0.00 square miles.

Total area of Mainland Beds (Pt. Arguello to Point Montara) 28.60 square miles

(4) Mainland Beds (Point Montara to Oregon).

Bed 226.	From a line drawn 270° from Point Montara to a line drawn 270° from Fort Point. 0.00 square miles.
Bed 301.	From a line drawn 270° from Fort Point to a line drawn 270° from Point Reyes. 0.00 square miles.
Bed 302.	From a line drawn 270° from Point Reyes to a line drawn 240° from Duncan's Point. 0.00 square miles.
Bed 303.	From a line drawn 240° from Duncan's Point to a line drawn 270° from Gualala Point. 1.33 square miles.
Bed 304.	From a line drawn 270° from Gualala Point to a line drawn 240° from Iverson Point 0.89 square miles.
Bed 305.	From a line drawn 240° from Iverson Point to a line drawn 330° from Point Arena. 1.11 square miles.
Bed 306.	From a line drawn 330° from Point Arena to a line drawn 270° from Stillwell Point. 1.03 square miles.
Bed 307.	From a line drawn 270° from Stillwell Point to a line drawn 270° from the middle of Ten-mile River. 0.93 square miles. \
Bed 308.	From a line drawn 270° from the middle of Ten-mile River to a line drawn 180° from Point Delgada. 0.20 square miles.
Bed 309.	From a line drawn 180° from Point Delgada to a line drawn 260° from Point Mendocino. 0.14 square miles.
Bed 310.	From a line drawn 260° from Cape Mendocino to a line drawn 300° from the South jetty of Humboldt Bay. 0.0 square miles.
Bed 311.	From a line drawn 300° from the South jetty of Humboldt Bay to a line drawn 270° from the middle of the Klamath River. 0.00 square miles.
Bed 312.	From a line drawn 270° from the middle of the Klamath River to a line drawn 250° from the California-Oregon Boundary

Total of mainland beds, Point Montera to Oregon Boundary 5.83 square miles

Grand Total 74.13 square miles

(k) Those beds not subject to lease are as follows:

*Mainland Beds (Pt. Arguello to Mexico)*

*Mainland Beds (Pt. Arguello to Pt. Montara)*

<i>Bed No.</i>	<i>Square Miles</i>	<i>Bed No.</i>	<i>Square Miles</i>
1	0.20	205	0.64
2	0.10	213	2.14
7	0.66	215	0.80
8	1.53	217	2.38
9	0.39	218	0.49
13	0.54	219	1.28
14	0.74	220	1.88
18	0.15	221	0.90
23	0.10	222	<u>0.81</u>
25	0.18	Total	11.32
28	0.60		
33	<u>0.97</u>		
Total	6.16		

<i>Mainland Beds (Pt. Montara to California-Oregon Border)</i>		
<i>Bed No.</i>		<i>Square Miles</i>
303		1.33
304		0.89
305		1.11
306		1.03
307		<u>0.93</u>
Total		5.29
<i>Island Beds</i>		
<i>Bed No.</i>		<i>Square Miles</i>
101		0.66
104		0.22
105		0.75
109		0.32
110		0.64
112		0.11
113		0.59
114		2.18
115		1.59
116		0.62
117		1.35
118		<u>1.51</u>
Total		10.54

## CHAPTER 8. MISCELLANEOUS

### 227. Sale of Live Aquacultural Products by Aquarium or Pet Stores

(a) No live aquaculture products shall be maintained or sold by aquarium or pet stores except the following:

- (1) Tropical species of ornamental marine or freshwater plants and animals not utilized for human consumption or bait purposes;
- (2) Goldfish;
- (3) Koi;
- (4) Albino channel catfish;
- (5) White sturgeon not to exceed 8 inches in total length;
- (6) Giant freshwater prawn (*Macrobrachium rosenbergi*);
- (7) Brine shrimp;
- (8) Worms of the family Tubificidae;
- (9) Crustaceans of the order Amphipoda that are native to California waters;
- (10) Mosquitofish, *Gambusia affinis*, except that mosquitofish may not be sold by aquarium or pet stores in Inyo, Mono, San Bernardino, Riverside and Imperial counties.
- (11) Abalone.

(b) White sturgeon and abalone shall be sold only under an Aquarium Dealer's Permit issued by the department to the owner of the aquarium or pet store. Applications shall be made on a department form available upon request from the Department of Fish and Game, Wildlife Protection Division, 1416 Ninth Street, Sacramento, California 95814. The permit shall be issued free of charge on a calendar year basis, or part thereof. See subsection 699(b) of these regulations for the fee for this permit. Aquarium dealer permittees shall maintain a log of all sales and shipments of live sturgeon and abalone, the name of the individual, company or organization taking possession of the product, the date of sale and the number of sturgeon or abalone sold. The log shall be shown upon request by an authorized department official.

(c) All abalone sold under an aquarium dealer's permit shall be marked as provided by section 238(e)(1)(B) of this title.

(d) Under no condition shall any live aquaculture product sold at an aquarium or pet store be planted in any waters of the state.

## **CHAPTER 9. AQUACULTURE**

### **235. Aquaculture Registration**

(a) Registration Required. Pursuant to the provisions of Section 15101 of the Fish and Game Code, all aquaculture facilities must be registered with the department each year. For purposes of Chapter 9, Subdivision 1, Division 1, Title 14, California Code of Regulations, an aquaculture facility is one that is devoted to the propagation, cultivation, maintenance and harvesting of aquatic plants and animals in marine, brackish or fresh water. This registration is not required for: the maintenance of koi and goldfish in closed systems for personal, pet or hobby purposes; the harvest and sale of brine shrimp; and the sale or cultivation of tropical species of ornamental marine or fresh water plants or animals, not utilized for human consumption or bait purposes, but maintained in closed systems for personal, pet industry or hobby purposes.

(1) Who Shall Register. The owner of each aquaculture facility shall register each year on forms provided by the department. Individual forms must be completed for each aquaculture facility location. Application forms and a list of laws and regulations governing aquaculture are available from the department's Aquaculture Development Section, 1416 Ninth Street, Sacramento 95814, and from the department's regional offices in Redding, Yountville, Rancho Cordova, Fresno, Long Beach and Menlo Park, on request.

(2) Cost of Registration. The registration fee for each new registered owner or operator shall be the fee specified in Section 15101(b) of the Fish and Game Code.

(3) Where to Submit Applications. Application forms together with the registration fee shall be submitted to one of the department's regional offices listed in subsection (1) above. Applications will be processed within five working days after approval. Applications shall be made on a form (Application for Aquaculture Registration, FG 750 (2/91), which is incorporated by reference herein) supplied by the department.

(b) Registration Limitation. The applicant must certify that he/she has read, understands and agrees to be bound by the regulations of the commission and the Fish and Game Code sections governing aquaculture and its products.

(c) Duration of Registration. The annual term of registration shall be January 1 to December 31, or if issued after the beginning of such term, for the remainder of that calendar year. Aquaculturists must reregister their facilities by March 1 of each year. Reregistration (renewal) fees shall be the amount specified in Section 15101(b) of the Fish and Game Code. An additional surcharge, specified in Section 15103 of the Fish and Game Code, shall be paid at the time of renewal if the proceeds from sale of aquaculture products of the facility in the preceding year exceed \$25,000. Penalties for late renewal will be assessed in accordance with Section 15104 of the Fish and Game Code. Anyone failing to register under this section shall be operating unlawfully.

(d) All permits specified in this chapter, in addition to the aquaculture registration issued pursuant to Section 15101 of the Fish and Game Code, shall be issued under the following conditions:

(1) Where Issued. Requests for permits required in Chapter 9, unless specifically directed otherwise, shall be submitted to the Department of Fish and Game Aquaculture Development Section, 1416 Ninth Street, Sacramento, CA 95814.

(2) Cost of Permit. Except as otherwise provided, see Section 15101 of the Fish and Game Code.

(3) Duration of Permits. Except as otherwise provided, permits will be issued on a calendar year basis, or if issued after January 1, for the remainder thereof.

#### **235.1. Screening Requirements for Aquaculture Facilities**

All bodies of water or private hatcheries registered for aquaculture purposes shall be entirely within the exterior boundaries of the land owned or leased by the owner of the facility. No aquaculture facility shall be built or operated on a natural water course or lake without the prior written approval of the department. Prior written approval is not required for aquaculture facilities constructed below a spring rising on private property.

For purposes of this section, waters existing seasonally or intermittently and not serving as a passageway or nursery area for anadromous fish are not required to be screened.

Except for those facilities using marine water, all artificial inlets and outlets of such bodies of water or private hatcheries used for aquaculture purposes shall be screened to prevent the ingress or egress of aquatic plants or animals.

### **235.2. Permit to Operate an Aquaculture Facility for Anadromous Fish on Davenport Landing Creek (Santa Cruz County)**

Permits may be issued to operate a registered aquaculture facility for anadromous fish under the following general terms and conditions:

(a) Any permit issued shall be on an experimental basis until its impact on the fishery resource can be ascertained. These regulations shall be applicable only to the waters of Davenport Landing Creek, contained within Santa Cruz County, until January 1, 1996, after which date these regulations and permit shall have no force or effect.

(b) Persons desiring a permit to operate an anadromous fish aquaculture facility on Davenport Landing Creek shall file a request with the commission. Commission approval must be obtained following a public hearing as required by section 15901 of the Fish and Game Code. If a permit is authorized by the commission, upon payment of \$100.00 a permit will be issued to the permittee by the Wildlife Protection Division following notification by the commission.

(c) All fish released into the wild under authority of any permit during the time they are in the wild will become the property of the state and may be taken under the authority of a sport or commercial fishing license.

(d) Prior to release into state waters, fish may be examined by the department to determine that they are not diseased or infected with any disease which, in the opinion of the department, may be detrimental to the state fishery resources. If such fish are found to be diseased or infected, they shall not be released into state waters and shall be disposed of in accordance with department instructions. Cost of such inspection shall be paid by the permittee.

(e) Importation of eggs or fish into the state by permittee shall be in accordance with section 15600 of the Fish and Game Code and section 236(c) of these regulations.

(f) Any liberation of fish by permittee into state waters shall be approved in advance by the department.

(g) The department may require the permittee to mark specific numbers of fish prior to their release into state waters. Any marks used by permittee to identify fish released into state waters shall be approved in advance by the department.

(h) The permittee shall have the right to trap and retain all fish returning to the stream; the department shall be allowed to examine all fish trapped.

(i) All live fish being transported by the permittee shall be in accordance with the provisions of sections 2270-2273, 15005 and 15600 of the Fish and Game Code.

(j) All dead fish being transported from facilities operated pursuant to this permit shall be tagged or packaged in accordance with the provisions of section 238 of this title and with section 15005, Fish and Game Code.

(k) Permittee shall maintain accurate records on forms provided by the department. Copies of these records will be forwarded to the department monthly, annually, and at times determined by the department.

(l) If, after a hearing, the commission finds that the operation described in the permit and conducted pursuant to this section is not in the best public interest, the commission may alter the conditions of the permit to mitigate such adverse effects, including but not limited to the immediate suspension of operation under the permit.

(m) The permittee shall reimburse the department for all actual costs incurred by the department in inspecting and monitoring the permittee's operations.

(n) The permittee shall provide all necessary security measures to protect fish at the rearing, release and trapping facilities.

(o) Upon termination of the permit, the permittee shall remove all structures and facilities placed in the stream bed by the permittee and shall return the watercourse to its original condition. In the event the permittee fails to do so, the state may restore the site at the permittee's sole cost. The permittee shall post a performance bond, signed by both the permittee and a corporate surety company, in the amount of \$15,000, to assure restoration of the premises to their original condition and to assure compliance with all other provisions of this permit.

### **236. Importation of Live Aquatic Plants and Animals**

The provisions of this section shall apply to the importation of all live aquatic plants and animals.

(a) No person shall import into this state any prohibited species of live aquatic plant or animal listed pursuant to Section 2118 of the Fish and Game Code or Section 671 of these regulations unless specifically authorized by the commission.

(b) Unless specifically prohibited by these regulations, plants and animals within the following groups may be imported without an importation permit from the department:

(1) Mollusks and crustaceans intended to go directly into the seafood market and which will not be placed into the waters of the state nor placed in waters which are discharged to waters of the state.

(2) Live ornamental tropical marine or freshwater plants or animals that are not utilized for human consumption or bait purposes, are maintained in closed systems for personal, pet industry or hobby purposes, and which will not be placed in waters of the state.

(3) Brine shrimp.

(c) With the exception of those importations described in Section 236(a) and (b), live aquatic plants and animals may be imported into this state only in accordance with the following terms and conditions:

(1) A standard importation permit signed by the director or his agent is required, and no shipment into the state may be made prior to the issuance of the permit authorizing the shipment or shipments. The department shall charge a fee of \$25.00 for issuing each permit. Fees charged for inspections shall be independent of the fees charged for issuing permits.

(2) With the exceptions of the live aquatic animals listed in subsection 236(c)(6), a permit is required for each lot or load, and each shipment must be accompanied by the original copy of the importation permit. Unless otherwise authorized, the person who is to receive any shipments of aquatic plants and animals shall apply to the department for this importation permit.

(3) Application for a standard importation permit shall be made on a form (Application for Standard Importation Permit, FG 789 (2/91), which is incorporated by reference herein) supplied by the department, as directed in Section 235(d) and shall reach the department's headquarters office at least 10 working days in advance of the probable arrival date of the shipment. A copy of the permit authorized by the director or his agent must accompany each load. If a change in date of shipment becomes necessary after a permit has been issued, the permittee shall notify the Aquaculture Development Section at least 5 days before the new date of shipment. Under special circumstances, the department may waive this 5-day notice requirement.

(4) All live aquatic plants and animals imported into California may be inspected by the department, either at the place of entry into the state or at other locations suitable to the department. The person importing the aquatic plants or animals may be required to provide facilities for inspecting and sorting them, and may be required to pay inspection costs, including salary and travel expenses of the inspector.

(5) Any lot or load of aquatic plants and animals found by the inspector to be diseased, parasitized or to contain species not authorized by the importation permit must be immediately destroyed or transported out of California within a period of time specified by the department. In such cases, the importation permit is automatically revoked.

(6) In lieu of the permits specified in subsection 236(c)(1), long-term permits for the following aquatic animals may be issued by the department for periods of up to one year. Application shall be made on a form (Application for Long-term Permit to Import Animals into California, FG 786 (2/91), which is incorporated by reference herein) supplied by the department. The department shall charge a fee for issuing each permit. See subsection 699(b) of these regulations for the fee for this permit.

(A) Oyster, oyster larvae and oyster seed.

(B) Ghost shrimps (*Callinassa* spp).

(C) Mud shrimps (*Upogebia* spp).

(D) Longjaw mudsuckers (*Gillichthys mirabilis*).

(E) Red swamp crayfish (*Procambarus clarkii*).

(F) *Orconectes virilis*.

(G) Marine Annelid worms (Phylum Annelida).

- (H) Sacramento blackfish (*Orthodon microlepidotus*).
- (I) Other species under conditions which the department determines represent no significant risk to the fish and wildlife resources of the state.
- (7) Importation of Salmonid Eggs. Applications to import eggs of fishes of the family salmonidae (trout, salmon and char) shall be accompanied by a health certificate signed by a person competent in the diagnosis of fish diseases stating that the hatchery or other sources of the eggs to be imported and the eggs themselves are free of the following diseases: infectious pancreatic necrosis (IPN); bacterial kidney disease (BKD); infectious hematopoietic necrosis (IHN); and viral hemorrhagic septicemia (Egtved).
- In questionable cases, the director of the department shall determine whether or not the person making the certification is technically qualified to do so.
- (8) Only those aquatic plants and animals lawfully obtained in another state or country may be imported.

### **237. Leasing of State Water Bottoms for Aquaculture**

- (a) Definitions. The following definitions are established for terms used in this section:
  - (1) "Aquaculture Area" means any public waters or private waters contiguous to public waters set aside for the purpose of cultivating, harvesting or relaying of any aquatic plant or animal life.
  - (2) "Aquaculture Agreement" means an agreement for the establishment of an aquaculture area on private water bottoms contiguous to state water bottoms which may include a permit for relaying or depuration of shell fish under authority of Fish and Game Code Division 12. Permits may include use of state or private lands for aquaculture purposes.
  - (3) "Aquaculture Lease" means a lease of state water bottoms for the cultivation of aquatic plants and animals.
  - (4) "Depuration" means the process by which shellfish cleanse themselves of contaminants in a controlled process water environment.
  - (5) "Depuration Facility" means the physical structure, enclosure or device in which depuration is accomplished, including all appurtenances.
  - (6) "Growing Area" means any offshore ocean, coastal estuarine or freshwater area suitable for natural shellfish growth or artificial shellfish propagation and shall include open seawater systems.
  - (7) "Relaying" means the moving of shellfish from one water to another.
  - (8) "Shellfish" in this section means native or nonnative bivalve mollusks.
  - (9) "Classified Areas" include those waters that may be classified by the State Department of Health according to the following:
    - (A) "Approved Area": a shellfish-growing area not adversely affected by sewage or other wastes.
    - (B) "Conditionally Approved Area": a shellfish-growing area that may be occasionally affected by sewage or other toxic substances.
    - (C) "Prohibited Area": a shellfish-growing area not certified because of its proximity to a known waste discharge or because the area is influenced by other detrimental environmental factors.
    - (D) "Restricted Area": a shellfish-growing area subjected to a limited degree of pollution which makes it unsafe to harvest shellfish for direct marketing but where harvesting for relaying or depuration may be permitted.
  - (10) "Lot" is a designated quantity of shellfish that is identifiable and may consist of one or more batches.
  - (11) "Batch" is a measurable, identifiable unit such as bushel, and one or more batches will comprise a lot.
  - (12) "Tidal Area" means the intertidal area between the high tide mark and 1,000 feet offshore. Commercial harvesting of native invertebrates in this area is subject to special permit requirements under Section 8500 of the Fish and Game Code.
- (b) Applications.
  - (1) Applications for a lease of state water bottoms for aquaculture or for an aquaculture agreement or for a permit to relay or depurate shellfish shall be made to the commission.

(2) Applications shall be accompanied by proof of ownership of, or a valid lease on the lands on which the operations are to occur, or description of the state lands which the applicant has leased or intends to lease and on which the operations are to occur.

(3) Applications also shall be accompanied by a description of the area involved and a reference map clearly showing the exterior boundaries of the area. The description must be tied to monuments of record and maps must be in a form acceptable for recording in the county(ies) in which the aquaculture area is located. A copy of all maps shall be submitted by the commission to the State Lands Commission. No aquaculture agreement will be valid until the State Lands Commission has certified to the department that the area applied for is unencumbered or the private ownership is properly described, so as not to preclude its use for the proposed culture.

(4) No aquaculture lease for state water bottoms will be approved until the commission has held a public hearing at least 90 days after notice thereof has been published in a newspaper of general circulation within the county involved. An aquaculture lease or aquaculture agreement is subject to repeal if a map of the area is not filed by the holder of such lease or agreement in the appropriate county(ies) within 30 days of approval by the commission.

(5) No aquaculture agreement for private water bottoms will be approved until the commission has held a public hearing at least 30 days after notice thereof has been published in a newspaper of general circulation within the county involved. An aquaculture agreement is subject to repeal if a map of the area is not filed by the holder of such aquaculture agreement in the appropriate county(ies) within 30 days of approval by the commission.

(6) An explanation of the type of operation including the aquaculture practices, relay or depuration activities to be employed, shall be included in all applications for aquaculture leases or agreements.

(7) The change of any authorized cultural practices as specified in the aquaculture lease or agreement must have approval of the commission before the change is put into effect.

(8) The application shall include information as to whether each of the areas involved in the aquaculture relay or depuration operation has been classified by the Department of Health Services as approved, conditionally approved, prohibited, restricted or unclassified.

(c) Aquaculture Leases and Agreements.

(1) Aquaculture leases or agreements shall not be modified, amended, transferred, assigned or hypothecated without the approval of the commission.

(2) The holder of the aquaculture lease or agreement shall comply with the provisions of the Fish and Game Code and the rules and regulations of the commission and any special provisions set forth in the lease or agreement by the commission.

(3) Before an aquaculture lease or agreement is issued by the department, the applicant must present evidence that the applied for aquaculture area has been registered in compliance with Fish and Game Code Section 15101.

(4) The department may inspect the depuration facilities, culture or relay areas of a holder of an aquaculture lease or agreement at any time.

(5) Vessels used by holders of an aquaculture lease or agreement may be required to maintain clearly visible identifying numbers.

(6) The holder of an aquaculture lease or agreement shall record the size, numbers or pounds of shellfish or other marine life planted, relayed or taken in or from waters of the state on forms as designated by the department.

(7) Marking of leases. All aquaculture leases shall be clearly marked. Minimum marking requirements shall include:

(A) One buoy anchored on each of the four corners and one buoy, possessing radar-reflecting capabilities, anchored in the center of each aquaculture lease. All buoys used to define the boundaries of an aquaculture lease shall be marked in conformance with the International Association of Lighthouse Authorities Maritime Buoyage system regulations (33 CFR Section 62.33 and 66.01-10).

(B) All buoys shall bear the Aquaculture Lease No. M- (followed by the appropriate number).

(C) Buoys marking the boundaries of an aquaculture lease shall be maintained at all times. If buoys are lost, displaced or are otherwise removed from an aquaculture lease, they must be replaced within a two-week period, weather conditions permitting, or the lease may be subject to termination.



(D) If aquaculture leases are located in areas too shallow to effectively maintain buoys, the four corners (boundaries) of a lease may be defined by stakes extending no less than three feet above the surface of the water at mean higher high water supporting the markings prescribed in subsection (A). Stakes used to define the limits of an aquaculture lease shall be marked and maintained in the same manner as buoys in the preceding subsections.

(E) Each aquaculture lessee shall make application to the U.S. Coast Guard, Aids to Navigation Branch, 400 Ocean Gate, Long Beach, CA 90822, for approval of the buoys and markings to be established on aquaculture leases.

(d) In addition to other requirements, a permit to relay or depurate shellfish shall contain the following conditions:

(1) An operation conducted under an aquaculture agreement or a relay or depuration permit that receives shellfish from the licensee's or permittee's own lands or lands leased by it, is not required to be licensed as a wholesale fish dealer and preserver, but shall maintain such records as are required by the department to monitor such operations, including but not limited to: data with respect to each batch of shellfish depurated or relayed that will show: its origin and quantity; date or reception by the depuration facility or relay bed and the length of time held in the facility or bed; and their final disposition. All depurated or relayed shellfish shall be identified by a tag or label securely fastened to the shipping container and bearing the certificate number of the shipper, his name and address, the name and address of the consignee, and the kind and quantity of shellfish in the container and the batch or lot number.

(2) The operator of a depurating facility receiving shellfish from other than the operator's owned or leased areas shall obtain a wholesale fish dealer's and preserver's license prior to the department's issuance of a permit and the permittee will maintain such records as required by the department.

(3) A relay or depuration permittee, moving shellfish for the purpose of cleansing, shall satisfactorily identify each lot of shellfish harvested and maintain its identity separate from other shellfish throughout its relaying or depuration process until certification by the Department of Health Services that edible shellfish standards have been met.

(4) Persons holding an aquaculture lease or agreement who relay shellfish from one area of the state to another, whether from private or public water bottoms, shall give the department notice two working days prior to the relay. Such notification shall be given to the department's office specified in the agreement.

(5) No shellfish shall be relayed without obtaining written permission from the department.

(6) Shellfish harvested from a conditionally approved or restricted area for relaying or depuration, shall be identified by a lot number. Shellfish so identified must be kept separate throughout the relaying or depuration process.

(7) Oysters, clams and mussels harvested for human consumption from the waters of Districts 12 and 13 by commercial fishermen, shall be taken only for the purposes of relaying or depuration.

(8) Shellfish produced by a registered aquaculture facility within the state may be relayed at any time. Such shellfish shall be free of disease and parasites so as to pose no threat to the environment. Hatcheries producing shellfish to be planted in state waters shall be inspected by the department for the presence of disease organisms at least once a year and, following such inspection, a permit authorizing planting of specified species for the ensuing year may be issued.

In lieu of the hatchery inspection, at the option of the registrant, inspection of each lot from the hatchery that is to be planted in state waters shall be requested. Request for inspecting each lot shall be made by the registrant at least two working days prior to the transfer. A written permit authorizing the planting shall be obtained before planting the shellfish.

(9) Subsection (d)(8) does not preclude inspections under Section 1006 of the Fish and Game Code.

(e) Shellfish relayed from Districts 12 and 13.

(1) Native shellfish taken from Districts 12 and 13 under an aquaculture lease or agreement for purposes of purification, whether from public or private lands, are subject to a royalty of 0.0125H per pound after taking the shellfish from the relaying or depurating sit. For the purpose of computing the royalty, the charge shall be based on the weight (including shell) of the shellfish after completion of the cleansing process. The royalty is payable within 30 days after close of the

calendar month in which it became due. If not paid within 60 days after the close of the month for which it became due, a penalty equal to 10% of the royalty shall be added to it.

(2) Nonnative shellfish relayed from Districts 12 and 13 and relayed for the purposes of purification, are subject to a 0.02H per pound fee after taking them from the relaying or depuration site. The fee is charged to cover administrative costs and is subject to adjustment and penalty as described in subsection (e)(1).

(f) Persons holding an aquaculture lease or agreement and using state water bottoms shall, in addition to the acreage rental fee for use of state water bottoms, be assessed a fee on all shellfish harvested not to exceed the privilege tag as provided in Fish and Game Code Section 15003. The fees shall be subject to the penalty and adjustment as described in subsection (e)(1). These fees shall not apply to the harvesting of shellfish from state or private water bottoms in Districts 12 and 13 for the purposes of cleansing. When water quality in Districts 12 and 13 permits direct use of the shellfish from state water bottoms or native shellfish from private water bottoms, the fee established by Fish and Game Code Section 15003 shall apply.

(g) Agar-bearing plants taken from state waters are subject to the fees of Section 165(a)(2)(E) of this title.

(h) Oysters, clams and mussels harvested from Districts 12 and 13 for commercial purposes must be taken by licensed commercial fishermen. In addition to a commercial fishing license, every fisherman when harvesting shellfish, must have in his possession a current permit issued pursuant to Section 123 of this title. Only those species listed on the permit for harvest from Districts 12 and 13 may be taken.

(i) Improvements of aquaculture leases.

(1) Oyster Cultivation.

(A) Bottom culture: leases must be improved at an average rate of at least two cases of seed-bearing shell (160 pounds of seed-bearing shell) or 30 bushels of shellfish one or more years of age per acre over the allotted acreage per year. Improvements by unattached, single seed (less than one year old) shall consist of planting an average rate of 10,000 single seed per acre per year over the allotted acreage. Term of improvement shall be four years for seed-bearing shell and three years for oysters one or more years of age.

(B) Off-bottom culture: leases must be improved at an average rate of at least one case of seed-bearing shell (80 pounds of seed-bearing shell), or 15 bushels of oysters one or more years of age per acre over the allotted acreage per year. Improvement by unattached single seed (less than one year old) shall consist of planting an average rate of 5,000 single seed per acre per year over the allotted acreage. Term of improvement shall be four years for seed-bearing shell and three years for oysters one or more years of age.

(C) Production requirements: the annual harvest rate shall be an average of 2,000 oysters per acre (over one year of age) over the allotted acreage effective three years after the effective date of the lease. Harvest reports shall be recorded in the form of a receipt in quadruplicate furnished by the department. The triplicate copy shall be delivered to the department on or before the first and sixteenth day of each month.

(2) Miscellaneous Aquatic Species.

(A) A lease of state water bottoms for the cultivation of species other than oysters will include minimum planting and harvesting requirements for the species to be cultivated to insure that water bottoms so encumbered will be used for the purpose intended.

(B) Harvest amounts shall be recorded in the form of a receipt in quadruplicate furnished by the department. The triplicate copy shall be delivered to the department on or before the first and sixteenth day of each month.

(j) As proof of use, holders of aquaculture leases shall submit to the department office designated in the lease agreement, a written declaration under penalty of perjury showing the date, quantity of species and acreage in each planting, also including a map showing acres, amounts and dates planted.

### **238. Sale and Transportation of Aquatic Plants and Animals**

Importation of live aquatic plants and animals is governed by Section 236 of these regulations. Except as provided for by Section 236, aquaculture products may be sold or transported in this state only in accordance with the following general terms and conditions:

(a) All aquaculture products sold or transported under the provisions of this section must have been legally reared or imported by an aquaculturist registered in this state.

(b) The following provisions apply to transactions of aquaculturists involving aquaculture products:

(1) A registered aquaculturist may sell and transport live aquaculture products authorized by that registration to any other aquaculturist authorized to possess the same species.

(2) All shipments of authorized aquaculture products shall be accompanied by a duplicate of a sales invoice or waybill showing the name of the producer, the producer's aquaculture registration number, date of shipment, the species being transported, the weight, volume or count of each species in the shipment, and the name and address of the consignee.

(3) Duplicates of the required sale or shipping documents shall be retained by the producer, and by the shipper, if different from the producer, for a period of one year from the date of sale. The records shall be shown upon written demand by the director of the department. The information contained in these documents is confidential except that such information may be disclosed in accordance with a proper judicial order in cases or actions instituted for enforcement of this section or for prosecution of violations of this section.

(c) A registered aquaculturist may sell and transport live those aquaculture products authorized by that registration to any of the following whose licenses or permits authorize the possession of the same live plants and animals for commercial purposes. Documents as described in Section 238(b)(2) shall accompany each shipment. Aquaculture products may not be stocked in any water of the state, except as provided for in Section 238.5 of these regulations.

(1) Scientific or educational establishments;

(2) Aquarium Dealer Permittees (See Section 227 of these regulations);

(3) Live Freshwater Bait Fish Licensees (See Sections 200 through 200.31 of these regulations);

(4) To any other legal purchaser or possessor for whom possession is legal.

(d) The following provisions apply to the operator of any commercial establishment where aquaculture products are maintained alive for human consumption:

(1) Under no condition shall these aquaculture products be stocked in any waters of this state.

(2) The operator may transport live aquaculture products between aquaculture facilities, retail sales stores, and/or wholesale distribution points. Documents as described in Section 238(b)(2) shall accompany each shipment.

(3) The operator shall retain copies of all sales invoices or waybills received with the products. Such invoices or waybills shall be retained by the operator for a period of at least one year following receipt of the aquaculture products listed thereon, and such invoices or waybills shall be produced upon request of an official of the department.

(4) All aquaculture products, except live shellfish, sold and leaving the premises of the operator shall be killed and accompanied by a sales receipt showing the date of purchase and name of business where purchased or be packaged in accordance with Section 240 of these regulations.

(e) Marking and Tagging Requirements.

(1) Abalone.

(A) All abalone produced by an aquaculturist registered pursuant to Section 15101 of the Fish and Game Code may be possessed, harvested, sold and transported, provided the abalone are identifiable as being cultivated or are packaged in sealed containers as provided for in Section 240 of these regulations.

Such abalone are exempt from the size limits established by Section 8304 of the Fish and Game Code.

(B) Abalone which spend part of their life in marine waters of the state, other than while in an aquaculture facility, must have an identifying mark or tag approved by the Department, or be otherwise identified as a product of aquaculture by a method approved by the Commission. Such identifying mark or method must be approved, or a tag attached, prior to the abalone being placed in waters outside the aquaculture facility. For purposes of this section, the term "aquaculture facility" includes a hatchery, rearing facility, pen, cage or any similar structure or device.

(C) Any person other than a registered aquaculturist processing cultured abalone at the wholesale level must possess a revocable processing permit for cultured abalone, as issued by the department.

(f) Retail Sales of Aquaculture Products at an Aquaculture Facility. All aquaculture products sold at an aquaculture facility shall be dead at the time of sale except for:

(1) Aquaculture products sold under the provisions of Sections 238(c), 238(d)(2), or 238.5 of these regulations. Aquaculture products sold under provisions of Section 238.5 of these regulations may be transported live and stocked as provided for by Section 238.5 of these regulations by retail customers. Documents as described in Section 238(b)(2) shall accompany each shipment, and records as described in Section 238(b)(3) shall be maintained by the aquaculturist and the retail customer.

(2) Striped bass, hybrid striped bass, abalone, steelhead trout and sturgeon sold pursuant to the provisions of Section 240 of these regulations.

(3) Aquaculture produced shellfish purchased at retail and taken from the aquaculture facility by the purchaser need only be accompanied by a sales receipt showing the name and aquaculture registration number of the producer, the item(s) and quantity purchased and the date of purchase. All other shipments of aquaculture products shall be accompanied by a sales invoice or waybill as provided in Section 238(b)(2) of these regulations.

(4) Those freshwater bait fishes that would be legal for sale as live bait by a licensed Live Freshwater Bait Fish Dealer in the same sport fishing district or portion of sport fishing district in which the aquaculture facility is located (see Sections 4.10 through 4.30 and Sections 200.13 through 200.31 for legal live bait fishes).

### **238.5. Stocking of Aquaculture Products**

Upon stocking, aquaculture products are wild and therefore "fish" as defined by Section 45 of the Fish and Game Code, except when stocked into a registered aquaculture facility. No person shall stock aquaculture products in this state except in accordance with the following general terms and conditions:

(a) All aquaculture products stocked under these provisions must be legally reared or possessed by an aquaculturist registered in this state. No person shall stock aquaculture products which are parasitized, diseased or of an unauthorized species.

(b) Live aquaculture products shipped to Inyo or Mono counties must be certified by the department as disease and parasite-free before being stocked in waters in those counties.

(c) A registered aquaculturist producing or possessing rainbow trout (*Oncorhynchus mykiss*), largemouth bass (*Micropterus salmoides*), bluegill (*Lepomis macrochirus*), redear sunfish (*Lepomis microlophus*), Sacramento perch (*Archoplites interruptus*), channel catfish (*Ictalurus punctatus*), blue catfish (*Ictalurus furcatus*) and white catfish (*Ictalurus catus*), may stock these species under the following terms and conditions.

Only publicly owned lakes covered by a cooperative agreement between the department and the lake operator and privately owned reservoirs, lakes and ponds in the following counties or portions thereof may be stocked without a stocking permit: Alameda, Butte, Colusa, Contra Costa, Glenn, Imperial, Kern, except in the Kern River drainage above Democrat Dam; Kings, Lake except in the Eel River drainage; Los Angeles, Merced, Napa, Orange, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Joaquin, Santa Barbara, Solano, Stanislaus, Sutter, Tehama, Ventura, Yolo, Yuba; those portions of Amador, Calaveras, El Dorado, Mariposa, Nevada, Placer and Tuolumne west of Highway 49; Fresno west of the Sierra and Sequoia National Forest boundaries; Madera west of the Sierra National Forest boundary; and Tulare west of the Sequoia National Forest and Sequoia National Park boundaries.

(d) Except for those species listed in Section 238.5(c) when planted into those specific areas and waters covered in Section 238.5(c), no person shall stock aquatic plants and animals except as follows:

(1) Each stocking of fish shall require a separate Private Stocking Permit (FG 749 (Rev. 5/93), which is incorporated by reference herein) issued by the department. A copy of this permit shall accompany all shipments. However, a copy of the same permit (FG 749 (Rev. 5/93)) may be used for additional consignments of the same species when stocked in the same water or waters,

until cancelled by the department. See subsection 699(b) of these regulations for the fee for this permit.

(2) Application for the private stocking permit shall be made to the regional manager of the Fish and Game region in which the fish are to be stocked. An application will be supplied to each applicant upon request.

(3) No person shall stock any species of fish in any water in which the stocking of such fish is contrary to the fisheries management programs of the department for that water or drainage, or in any water from which such fish might escape to other waters where such fish are not already present. All applicants will be advised upon request of the said departmental fisheries management programs.

(4) Permittee shall notify the regional office of the department not less than 10 days in advance of stocking in order to make arrangements for inspection. Such inspection may be waived at the discretion of the department. If, upon inspection, diseased or parasitized fish or fish of unauthorized species are found by the department to be present, they shall be disposed of by the permittee as directed by the department. The department may require that the expense of any inspection made necessary by the provisions of these regulations be borne by the permittee.

(5) A stocking permit may be cancelled or suspended by the department upon conviction of a violation of these regulations by a court of competent jurisdiction. Cancellation or suspension may be appealed to the commission.

(6) A stocking permit is valid only when signed by the applicant.

(e) A registered aquaculturist selling and transporting aquatic plants and animals for the purpose of stocking in this state shall retain copies of documents required by Section 15005(b) of the Fish and Game Code for a period of three years following stocking of the fish. The documents shall be shown upon written demand by the director of the department. The information contained in the documents is confidential except that such information may be disclosed in accordance with a proper judicial order in cases or actions instituted for enforcement of this section or for prosecution of violations of this section.

(f) Except for Inyo, Mono, San Bernardino, Riverside and Imperial counties, mosquitofish (*Gambusia affinis*) may be planted for purposes of mosquito control without obtaining a permit otherwise required by these regulations. In Inyo and Mono counties and in public waters of San Bernardino, Riverside and Imperial counties, mosquitofish may not be planted without the written concurrence of the department.

#### **240. Transportation, Possession and Sale of Sturgeon, Striped Bass, Hybrid Striped Bass (Striped Bass Crossed with White Bass), Abalone and Steelhead Trout Produced or Imported by Registered Aquaculturists for Aquaculture Purposes**

All sturgeon, striped bass, hybrid striped bass, abalone and steelhead trout produced or imported by registered aquaculturists for aquaculture purposes shall be transported, possessed and sold as provided in this section. For purposes of these regulations, aquaculture products are products of aquaculture as defined by Section 17 of the Fish and Game Code.

(a) Such aquaculture products must be accompanied by a duplicate of a sales invoice or waybill, showing the name and address of the producer, the producer's aquaculture registration number, date of shipment, the species being transported, the weight, volume, or count of each species in the shipment, the name and address of the intended receiver and tag number if subject tag is required.

(b) The consignee shall retain a copy of the bill of lading or similar accountable document for one year and make it available to the department upon request.

(c) Live aquaculture products are not subject to the provisions of subsections (c), (d) and (e). All dead aquaculture products or parts thereof, except hybrid striped bass sold whole or in the round with the head attached, transported or sold within the state pursuant to this section shall be either:

(1) Packaged in sealed containers or boxes. Each container or box shall be clearly labeled showing a description of the contents and an identification of the shipper; or

(2) Tagged with consecutively numbered cinch-up vinyl plastic spaghetti tags with a legend showing the name of the shipper along with the city and state of origin. The tag sequence shall be present on all invoices and waybills. Reusable tags may not be possessed in the State of

California. When tags are removed from the aquaculture products they must be destroyed by cutting through that portion of the tag which contains the name of the shipper and the tag number; or

(3) Clearly marked, using liquid nitrogen and a metal band, with an "A," 1/2-inch square, posterior to the head, anterior to the dorsal fin and above the lateral line. All aquaculture products shall be marked when alive but may be killed prior to transport or sale.

(d) No such dead aquaculture products may be possessed at a place where aquaculture products are sold unless packaged, marked or tagged in the manner described in subsection (c) except that operators or employees of retail stores, restaurants or other eating establishments may remove portions from packaged, marked or tagged aquaculture products when such portions are being displayed or prepared for actual sale to a consumer or for actual consumption on the premises.

(e) Aquaculture products tagged, marked and/or packaged under subsection (c) above may be processed and repackaged or retagged by dealers possessing a revocable processing permit issued by the Wildlife Protection Division of the department specifically for striped bass, hybrid striped bass, sturgeon, abalone and steelhead trout. The permit shall be issued free of charge on a calendar year basis, or part thereof. When transported for sale such aquaculture products or portions of aquaculture products shall meet the transportation requirements of subsections (a) and (b).

(f) Live aquaculture products may not be imported except in accordance with Section 236, Title 14, California Administrative Code.

(g) Live hybrid striped bass may not be imported or possessed by registered aquaculturists except under the terms of a permit issued by the department, specifying conditions under which these aquaculture products may be reared and transported. Requests for permits shall be submitted to the Department of Fish and Game Aquaculture Development Section, 1416 Ninth Street, Sacramento, California 95814.

(h) Live hybrid striped bass shall only be possessed or sold in Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Ventura, Lassen and Modoc counties.

(i) All aquaculture products held live for retail sale shall be killed at the time of sale and be dead before leaving the retailer's premises, and under no condition may these aquaculture products be stocked in any lake, pond or stream.

#### **243. Take of Aquatic Plants, Invertebrates, Fishes and Bullfrogs From the Wild for Use as Broodstock for Aquaculture Purposes**

Pursuant to sections 5503 and 15300, Fish and Game Code, aquatic plants, invertebrates, fishes and bullfrogs (*Rana catesbeiana*) may be taken from the wild for aquaculture purposes only in accordance with the following regulations:

(a) Exceptions. This section does not apply to the following:

(1) The take of live freshwater fish for sale as bait (See Section 8460, Fish and Game Code and Section 200, Title 14, CCR).

(2) The take of aquatic animals by commercial fishermen (See Section 226.7, Title 14, CCR).

(b) Permits. The department may issue a revocable, nontransferable permit to collect aquatic plants, invertebrates, fishes and bullfrogs from the wild for use in developing a domesticated broodstock for aquaculture purposes. Permits shall not be issued for striped bass or white sturgeon except by specific commission authorization. The permit shall be valid for one year from the issue date listed on the permit unless the expiration date on the permit specifies a shorter time period. No permits shall be issued for golden trout, steelhead trout, chinook salmon or coho salmon, or for those animals listed by the state or federal government as endangered, threatened or fully protected. Permits shall state the name, mailing and business addresses and phone of permittee, permittee's aquaculture registration number, name of the collector(s) if different from permittee, collector(s) phone number, collector(s) driver's license, or DMV identification number, name of assistant(s), assistant(s) phone number, assistant(s) driver's license, or DMV identification number, species to be collected, number or total weight to be collected, collection locations and methods, and collection dates. Any special notifications, requirements and conditions shall attached to the permit on a separate page.

(1) Who May Obtain Permits. Permits shall be issued only to the owner or operator of an aquaculture facility currently registered pursuant to Section 15101, Fish and Game Code and Section 235, Title 14, CCR. The aquaculturist must be authorized by said registration to possess the species to be taken. The aquaculturist may designate, on the permit application, a person to collect for him.

(2) Cost of the Permit. An administrative fee of \$500 shall be charged for processing the permit and initial site inspection. The department shall assess an additional fee, equal to the actual costs to the department in salaries, travel expenses and equipment use, if any department personnel are required to assist in the collection or inspection of the wild broodstock.

(3) How to Apply for the Permit. The permit application, FG 794 (Rev. 07/08), is available on request from the Aquaculture Coordinator at the address provided on the application. Completed and signed application forms and the \$25 nonrefundable application fee shall be submitted to the Aquaculture Coordinator.

(c) Who May Collect Wild Broodstock. Wild broodstock shall be collected only by the permittee or those persons listed as collectors on the permit. The permittee or one of the collectors designated by the permit shall be present when animals are collected. Collectors shall have the collection permit in their possession while engaged in collection activities and while transporting species collected to the permittee's registered facility. Any person listed on the permit as a collector and who is attempting to take broodstock, shall have a commercial fishing license in their possession. All collectors and assistants must have a driver's license or DMV identification in their possession.

Persons assisting the collector, and under their direct supervision, need not have a broodstock collection permit, but they shall be listed as assistants on the permit. The assistant may only assist in the landing of the broodstock or assist with equipment such as boat operation. The assistant is not allowed to take or collect broodstock independently.

The department may require that an employee of the department be present to monitor collection operations, or that the broodstock be collected by department personnel. All costs to the department for monitoring or collecting shall be borne by the permittee. Any special conditions applied to the collection of wild broodstock shall be stated on the permit or attached page(s).

(d) Collection Methods and Gear. All aquatic plants and animals authorized to be taken by the permit shall be captured only in those waters and only with those types of gear specified in the permit. All species other than those specified in the permit shall be returned immediately in good condition to the water of origin.

The permittee shall comply with department requirements concerning construction and deployment of collection gear. Locations and times of collecting and the amount taken may be restricted by the department to protect the wild populations of authorized species or other species found in the collecting area, or to reduce interference with angling.

No recreational take of any kind may be done by the person(s) listed on the permit while taking the wild plants and animals authorized under the permit.

(e) Notification of Department. Before making any collection, the permittee and/or the other persons listed on the permit shall notify the department's regional office having responsibility for the area where the permittee wishes to collect or any other department office specified in the permit. Unless otherwise specified in the permit, the notification shall reach the regional office or other specified office by letter, telephone or personal contact at least 48 hours in advance of the collection date(s) and shall include the locality, dates and time(s) during which collecting is to be done.

(f) Written Reports and Logbooks.

(1) Permittee shall submit a written report to the Aquaculture Coordinator and the department office specified on the permit within six months of the permit's expiration date or prior to application for any additional broodstock collection permits, whichever is earlier. The report shall state the number of plants or animals collected, the location and condition of the wild broodstock and the number or amount of progeny cultured and provide other information as specified in the permit.

(2) When the logbooks are required to be filled out as a condition on the permit, the logbooks shall be in the immediate possession of the permittee and/or the collector working under the

authority of the permit. The logbook shall be accurate and complete at all times and shall contain the required information as prescribed by the department.

(g) Disposition of Wild Broodstock and Their Cultured Progeny. Wild plants and animals taken under the authority of this permit remain the property of the state and shall not be sold, bartered or traded without written permission of the department. Wild broodstock shall be held only at an aquaculture facility registered by the permittee and may be required to be held separate from non-wild broodstock. The department will determine the final disposition of all wild broodstock. Any wild broodstock taken and possessed shall be marked in a manner specified in the permit. The cultured progeny of plants and animals lawfully obtained under the authority of a broodstock collection permit are the exclusive property of that person who cultured them, or that person's successor in interest.

(h) Inspections. Permittees shall allow authorized department employees to inspect any and all wild broodstock authorized by this permit and their holding facilities, vehicles, vessels or other places that the broodstock may be held. Inspections may be made at any time with or without prior notification.

(i) Permit Denial or Revocation. The department may deny or revoke a permit to take wild plants and animals for use in developing a domesticated broodstock for any of the following reasons:

(1) To protect an aquatic resource.

(2) To protect public safety.

(3) A commercial source is available.

(4) The applicant does not have facilities or experience necessary to develop a domesticated broodstock from wild plants or animals.

(5) The applicant or permittee has demonstrated repeated failure to develop a domesticated broodstock from wild plants or animals.

(6) The applicant or permittee, his designated collector or an employee or assistant has violated the terms of a wild broodstock collection permit issued pursuant to this section, or has been convicted by a court of competent jurisdiction of any violation of the Fish and Game Code or commission regulations as determined by the department.

(7) Any person who currently has a permit under revocation or suspension by the department or commission.

(j) Violations. All permit requirements and conditions shall be followed. Any violation of any provision of the permit is a violation of this section and may lead to immediate permit revocation or suspension.

(k) Appeal. Any denial, suspension or revocation may be appealed to the commission

#### **245. Aquaculture Disease Control Regulations**

(a) General Conditions.

(1) All fish inspections and examinations for diseases/pathogens shall be conducted in accordance with the most recent edition of "Procedures for Detection and Identification of Certain Fish Pathogens" published by the Fish Health Section of the American Fisheries Society (FHS Blue Book). All such inspections and examinations shall be conducted by a fish pathologist.

(2) When diseases/pathogens are identified by a fish pathologist in aquatic plants or animals in an aquaculture facility, or in transit to or from such a facility, or in animals intended to be imported into the state, pursuant to Section 236 of these regulations, which require restrictive action by the department, the owner or consignee involved shall be notified by the department immediately. The owner or consignee may accept the original identification or may request that the department seek confirmation of the identification by another fish pathologist.

(3) Upon confirmation, if requested, or acceptance of the identification of any listed disease/pathogen which requires restrictive action by the department as set forth in subsection (c), a compliance agreement describing the action to be taken may be drawn up between the owner and the director. The department shall commence negotiation of the terms of the compliance agreement within 48 hours after acceptance or confirmation as defined in subsection (b). The agreement must be signed by the owner and the director within 30 days of acceptance or confirmation. If the compliance agreement is not signed within 30 days, a quarantine as specified in Fish and Game Code Section 15505 may be imposed while the owner appeals to the



commission. The agreement shall be designed in consultation with the Aquaculture Disease Committee to bring the least amount of economic hardship possible to the affected party while affording maximum protection to other growers and the fishery resources of the State.

(4) If at any time a fish pathologist identifies one or more pathogens listed in this section anywhere within the State of California, he must immediately report the identification to the director of the department.

(5) Methods for disposal of aquatic plants and animals and for disinfection of aquaculture equipment and facilities shall be specified in the compliance agreement in accordance with the disease category and the threat to other aquatic plant or animal life or aquaculture facilities.

(6) Any live aquatic plants, animals or eggs originating outside California shall be certified by a fish pathologist as free of subsection (c) listed diseases/pathogens before a permit for importation is issued.

(7) Anyone interested in conducting research on those diseases/pathogens designated as catastrophic must submit a written research proposal to the director of the department and obtain written approval from the director before the pathogen is brought to their facility. Anyone denied approval pursuant to this subsection may appeal such denial to the commission.

(8) Upon identification of a disease/pathogen which presents a threat to the aquaculture industry or aquatic animal or plant life, but which is not listed in this section, the director of the department shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee, impose an immediate holding action and develop a plan of action, which may include prohibiting an intended importation of aquatic plants or animals infected by the disease.

(b) Definitions.

(1) Compliance Agreement. A written agreement between the director of the department and the owner or consignee of the diseased or infected aquaculture product which outlines the steps for disposal of the infected aquatic plants or animals and the procedures, both chemical and mechanical, for clean up of the facility.

(2) Confirmation. The second identification of a disease agent from the original sample or source by another fish pathologist.

(3) Disposal. The destruction or marketing of animals by methods prescribed in a compliance agreement.

(4) Eradication. The elimination of disease agents.

(5) Fish Pathologist. A department veterinarian or fish pathologist, or a fish pathologist certified by the Board of Certification of the Fish Health Section of the American Fisheries Society pursuant to their guidelines adopted effective January 1, 1982 or a fish health specialist recognized by a state or federal governmental authority and approved by the department.

(6) Immediate Holding Action. A prohibition of moving any plant or animal from an aquaculture facility for up to 30 days.

(7) Other Holding Action. Restrictions outlined in the compliance agreement on plant or animal movement to specific markets, watersheds or geographic areas deemed necessary by the department to protect other aquaculture facilities and the aquatic plants and animals of the State.

(8) Q Diseases. Diseases for which there is so little information they cannot be given a permanent classification.

(9) Disease. An abnormal condition of an organism as a consequence of infection by a pathogen, that impairs normal physiological function.

(10) Pathogen. A biological agent that has the potential to cause disease.

(11) Infection. Invasion of an organism by a pathogenic biological agent.

(c) Disease Categories. The diseases/pathogens of concern are grouped in four categories as to their seriousness and the specific action to be taken when diagnosed.

(1) Significant Diseases/Pathogens. On identification by a fish pathologist and confirmation, if requested, of any of these diseases/pathogens, the director shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee and shall impose an immediate holding action, other holding action or no restrictions as the director in consultation with the Aquaculture Disease Committee may deem necessary.

(A) Viruses

1. White Sturgeon Iridiovirus (WSIV).

(B) Bacteria

1. Enteric Redmouth (ERM) *Yersinia ruckeri*.
  2. Furunculosis *Aeromonas salmonicida*.
  3. Vibriosis in finfish raised in freshwater *Vibrio* spp.
  - (C) Parasites
    1. Copepod *Lernaea* spp., *Salmincola* spp., and *Ergasilus* spp.
    2. Oyster Disease (MSX) *Haplosporidium nelsoni*.
    3. Sabellid Polychaete Fan Worm *Terebrasabella heterouncinata*.
  - (D) Fungi
    1. Ichthyophonus *Ichthyophonus hoferi*.
  - (E) Dinoflagellate Algae
    1. Oyster Perkinsosis *Perkinsus marinus*.
- (2) Serious Diseases. On identification by a fish pathologist of any of these diseases, the director shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee and shall impose an immediate holding action until confirmation, if requested, is obtained; then the action will be disposal or other holding action the director in consultation with the Aquaculture Disease Committee may deem necessary, as specified in the compliance agreement.
- (A) Viruses
    1. Koi Herpes Virus (KHV).
    2. Largemouth Bass Virus (LMBV).
  - (B) Bacteria
    1. Bacterial Kidney Disease (BKD) *Renibacterium salmoninarum*.
  - (C) Parasites
    1. Bonamiasis of Oysters *Bonamia* spp.
    2. Ceratomyxosis *Ceratomyxa shasta*.
    3. Microsporiasis *Pleistophora ovariae*.
    4. Proliferative Kidney Disease (PKD) *Tetracapsuloides bryosalmonae*
    5. Seaside Disease *Haplosporidium costale*.
    6. Whirling Disease *Myxobolus cerebralis*.
- (3) Catastrophic Diseases. On identification by a fish pathologist of any of these diseases, the director shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee and shall impose an immediate holding action until confirmation, if requested, is obtained; then other holding action, disposal and eradication shall be required, as specified in the compliance agreement.
- (A) Viruses
    1. Abalone Herpesvirus.
    2. Channel Catfish Virus (CCV).
    3. Infectious Hematopoietic Necrosis Virus (IHNV).
    4. Infectious Pancreatic Necrosis Virus (IPNV).
    5. Infectious Salmon Anemia Virus (ISAV).
    6. Spring Viremia of Carp Virus (SVCV) *Rhabdovirus carpio*.
    7. Viral Hemorrhagic Septicemia Virus (VHSV).
  - (B) Bacteria
    1. Salmon Rickettsiosis *Piscirickettsia salmonis*.
  - (C) Parasites
    1. *Marteilioides chungmuensis*.
- (4) Q Diseases. On identification by a fish pathologist and confirmation, if requested, of any of these diseases, the director shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee and shall impose an immediate holding action pending determination of a course of action for diseases in this classification.
- (A) Viruses
    1. Herpesvirus salmonis (HPV).
    2. Viral Erythrocytic Necrosis Virus (VENV).
  - (B) Bacteria
    1. *Edwardsiella ictaluri*.
  - (C) Parasites

1. Denman Island Disease of Oysters *Mikrocytos mackini*.

(d) Aquatic Diseases and Host Organisms. Pursuant to Section 15500 of the Fish and Game Code, the commission has compiled a list of diseases and parasites and the aquatic plants and animals they are known to infect or parasitize. Infected plants or animals are considered detrimental to the aquaculture industry and to wild stocks of aquatic plants and animals.

<i>Disease/Pathogen</i>	<i>Host</i>
(1) Viruses	
(A) Abalone Herpesvirus	Abalone
(B) Channel Catfish Virus (CCV)	Channel catfish
(C) Herpesvirus salmonis (HPV)	Rainbow trout
(D) Infectious Hematopoietic Necrosis Virus (IHNV)	Salmonids
(E) Infectious Pancreatic Necrosis Virus (IPNV)	Salmonids
(F) Infectious Salmon Anemia Virus (ISAV)	Salmonids
(G) Koi Herpes Virus (KHV)	Common Carp
(H) Largemouth Bass Virus (LMBV)	Centrarchids
(I) Spring Viremia of Carp Virus (SVCV) <i>Rhabdovirus carpio</i>	Carp
(J) Viral Erythrocytic Necrosis Virus (VENV)	Marine and anadromous finfish
(K) Viral Hemorrhagic Septicemia Virus (VHSV)	Marine/freshwater finfish
(L) White Sturgeon Iridovirus (WSIV)	Sturgeon
(2) Bacteria	
(A) Bacterial Kidney Disease (BKD) <i>Renibacterium salmoninarum</i>	Salmonids
(B) Enteric Redmouth (ERM) <i>Yersinia ruckeri</i>	Finfish
(C) <i>Edwardsiella ictaluri</i>	Channel catfish
(D) Furunculosis <i>Aeromonas salmonicida</i>	All finfish
(E) Salmon Rickettsiosis <i>Piscirickettsia salmonis</i>	Salmonids
(F) Vibriosis in finfish raised in freshwater <i>Vibrio</i> spp.	Finfish
(3) Parasites	
(A) Bonamiasis of Oysters <i>Bonamia</i> spp.	Oyster
(B) Ceratomyxosis <i>Ceratomyxa Shasta</i>	Salmonids, polychaetes
(C) Copepod <i>Lernaea</i> spp., <i>Salmincola</i> spp., and <i>Ergasilus</i> spp.	Freshwater finfish
(D) Denman Island Disease <i>Mikrocytos mackini</i>	Oysters
(E) <i>Marteilioides chungmuensis</i>	Oysters
(F) Microsporiasis <i>Pleistophora ovariae</i>	Golden shiner, fathead minnow
(G) Oyster Disease (MSX) <i>Haplosporidium nelsoni</i>	Oysters
(H) Proliferative Kidney Disease (PKD) <i>Tetracapsuloides bryosalmonae</i>	Salmonids
(I) Sabellid Polychaete Fan Worm <i>Terebrasabella heterouncinata</i>	Gastropod Molluscs
(J) Seaside Disease <i>Haplosporidium costale</i>	Oyster
(K) Whirling Disease <i>Myxobolus cerebralis</i>	Salmonids, tubifex
(4) Fungi	
(A) Ichthyophonus <i>Ichthyophonus hoferi</i>	Finfish
(5) Dinoflagellate Algae	
(A) Oyster Perkinsosis <i>Perkinsus marinus</i>	Oysters

### **671. Importation, Transportation, and Possession of Live Restricted Animals**

(a) It shall be unlawful to import, transport, or possess alive animals restricted in subsection (c) below except under permit issued by the Department of Fish and Game. Permits may be issued by the department as specified herein and for purposes designated in Section 671.1 subject to the conditions and restrictions designated by the department. Except for mammals listed in Fish and Game Code Section 3950 or live aquatic animals requiring a permit pursuant to Fish and Game Code Section 2271, no permit is required by this section for any animal being imported, transported, or possessed pursuant to any other permit issued by the department. Cities and counties may also prohibit possession or require a permit for these and other species not requiring a state permit.

(b) The commission has determined the below listed animals are not normally domesticated in this state. Mammals listed to prevent the depletion of wild populations and to provide for animal welfare are termed "welfare animals", and are designated by the letter "W". Those species listed because they pose a threat to native wildlife, the agriculture interests of the state or to public health or safety are termed "detrimental animals" and are designated by the letter "D". The department shall include the list of welfare and detrimental wild animals as part of DFG MANUAL NO. 671 (2/25/92) IMPORTATION, TRANSPORTATION AND POSSESSION OF RESTRICTED SPECIES, to be made available to all permittees and other interested individuals.

(c) Restricted species include:

(1) Class Aves -Birds

(A) Family Alaudidae -Larks

*Alauda arvensis* (Skylark) (D).

(B) Family Cuculidae -Cuckoos

All species (D).

(C) Family Corvidae -Crows, Ravens, Rooks, Jackdaws

All species (D).

(D) Family Turdidae -Thrushes, Blackbirds, Fieldfare

1. *Turdus merula* (European blackbird) (D).

2. *Turdus viscivorus* (Missel thrush) (D).

3. *Turdus pilaris* (Fieldfare) (D).

4. *Turdus musicus* (Song thrush) (D).

(E) Family Sturnidae -Starlings, Mynahs

All species (D), except *Sturnus vulgaris* (Starling), *Gracula religiosa* (Hill mynahs), and *Leucopsar rothschildi* (Rothschild's mynah) are not restricted.

(F) Family Ploceidae -Sparrows, Weavers, Queleas

1. Genus *Passer* (Sparrow)

All species (D), except *Passer domesticus* (English house sparrow) is not restricted.

2. *Foudia madagascariensis* (Madagascar weaver) (D).

3. *Ploceus baya* (Baya weaver) (D).

4. Genus *Quelea* (Queleas) -All species (D).

(G) Family Estrildidae -Waxbills, Munias, Ricebirds

1. *Padda oryzivora* (Java sparrow) (D).

(H) Family Emberizidae -Yellowhammer

*Emberiza citrinella* (Yellowhammer) (D).

(I) Order Falconiformes -Falcons, Eagles, Hawks, Vultures

All species (D)

(J) Order Strigiformes -Owls

All species (D)

(K) Family Pyconotidae -Bulbuls or Fruit Thrushes

*Pycnonotus jocosus* (Red-whiskered bulbul) (D).

(L) Family Zosteropidae -Whiteeyes

Genus *Zosterops* (Whiteeyes) -All species (D).

(M) Family Psittacidae -Parrots, Parakeets

*Myiopsitta monachus* (Monk or Quaker parakeet) (D).

(N) Family Anatidae (ducks, geese, and swans)

1. *Cygnus olor* (Mute Swan) (D)

- (2) Class Mammalia -Mammals
- (A) Order Primates -Monkeys, Apes  
All species (W), except Family Hominidae -not restricted.
- (B) Order Edentata Sloths, Anteaters, Armadillos, etc.  
All species:
1. Family Dasypodidae -Armadillos -All Species (D).
  2. Family Bradypodidae -Sloths -(W).
  3. Family Myrmecophagidae -Anteaters -(W).
- (C) Order Marsupialia -Marsupials or Pouched Animals  
All species (W).
- (D) Order Insectivora -Shrews, Moles, Hedgehogs, etc.  
All species (D).
- (E) Order Dermoptera -Gliding Lemurs  
All species (D).
- (F) Order Chiroptera -Bats  
All species (D).
- (G) Order Monotremata -Spiny Anteaters, Platypuses  
All Species (W).
- (H) Order Pholidota -Pangolins or Scaly Anteaters  
All species (W).
- (I) Order Lagomorpha -Pikas, Rabbits, and Hares  
All species, (D), except domesticated races of rabbits and hares of the Family Leporidae -not restricted.
- (J) Order Rodentia -Hamsters, Field Mice, Voles, Muskrats, Gerbils, Squirrels, Chipmunks, Woodchucks, and Prairie Dogs
1. All species (D), except:
    - a. *Ondatra zibethica*(Muskrats) -Not restricted under conditions set forth in Fish and Game Code Section 2250;
    - b. Domesticated races of golden hamsters of the species *Mesocricetus auratus* and domesticated races of dwarf hamsters of the Genus *Phodopus* not restricted;
    - c. Domesticated races of rats or mice (white or albino; trained, dancing or spinning, laboratory-reared) not restricted;
    - d. Domesticated races of guinea pigs of the species *Cavia porcellus* not restricted; and
    - e. Domesticated races of chinchillas of the species *Chinchilla laniger* not restricted.
- (K) Order Carnivora -Raccoons, Ringtailed Cats, Kinkajous, Coatis, Cacomistles, Weasels, Ferrets, Skunks, Polecats, Stoats, Mongoose, Civets, Wolves, Foxes, Coyotes, Lions, Tigers, Ocelots, Bobcats, Serval, Leopards, Jaguars, Cheetahs, Bears, etc.
1. Family Felidae -All species (W) except:
    - a. *Acinonyx jubatus* (cheetahs) -(D).
    - b. Domestic cats and hybrids of domestic cats are not restricted.
  2. Family Canidae -All species (W).
    - a. Wolf hybrids *Canis familiaris*(domestic dog) x *Canis lupus*(wolf).
    - i. Any F1 (first) generation wolf hybrid whelped on or before February 4, 1988 may be possessed under permit from the department.
    - ii. No state permit is required to possess the progeny of F1 generation wolf hybrids, but cities and counties may prohibit possession or require a permit.
    - b. Domesticated dogs are not restricted.
  3. Family Viverridae -All species (D).
  4. Family Procyonidae -All species -(D), except:
    - a. *Ailurus fulgens* (Lesser Panda) -(W).
    - b. *Ailuropoda melanoleuca* (Giant panda) -(W).
    - c. *Bassariscus astutus* (Ringtail or Ringtailed cat) -(W).
    - d. *Jentinkia sumichrasti* (Mexican and Central American Cacomistle) -(W).
  5. Family Mustelidae -All species (D), except:
    - a. *Ambloynx cinerea* (Oriental small-clawed otter) -(W).
    - b. *Aonyx capensis* (African clawless otter) -(W).

- c. *Pteronura brasiliensis* (Giant otter) -(W).
- d. All species of Genus *Lutra* (River otters) -(W).
- 6. All others -(W).
- (L) Order Tubulidentata -Aardvarks  
All species -(W).
- (M) Order Proboscidae -Elephants  
All species -(W).
- (N) Order Hyracoidae -Hyraxes  
All species -(W).
- (O) Order Sirenia -Dugongs, Manatees  
All species -(W).
- (P) Order Perissodactyla -Horses, Zebras, Tapirs, Rhinoceroses, etc.  
All species (W), except Family Equidae is not restricted.
- (Q) Order Artiodactyla -Swine, Peccaries, Camels, Deer, Elk, Moose, Antelopes, Cattle, Goats, Sheep, etc.  
All species (D) except:
  - 1. *Bos taurus* and *Bos indicus* (Domestic cattle); *Bos grunniens* (Yak); *Bubalus bulalis* (Asian water buffalo); *Ovis aries* (Domestic sheep); *Capra hircus* (Domestic goat); *Sus scrofa domestica* (Domestic swine); *Llama glama* (Llama); *Llama pacos* (Alpaca); *Llama guanicoe* (Guanaco); Hybrids of llama, alpaca and guanacos; *Camelus bactrianus* and *Camelus dromedarius* (Camels); and *Bison bison* (American bison), are not restricted.
  - 2. Permits may be issued for species of Elk (Genus *Cervus*) which are already maintained within California; and
  - 3. Permits may be issued pursuant to Section 676, Title 14, CCR, for importing, breeding, slaughter and sale of the meat and other parts of fallow deer (*Dama dama*) for commercial purposes.
- (3) Class Amphibia -Frogs, Toads, Salamanders
  - (A) Family Bufonidae -Toads  
*Bufo marinus*, *Bufo paracnemis*, *Bufo horribilis* (Giant toad or marine toad group) and all other large toads from Mexico and Central and South America-(D).
  - (B) Family Pipidae -Tongueless Toads  
All species of the Genus *Xenopus*-(D).
  - (C) Family Ambystomatidae-Mole Salamanders  
All species of the genus *Ambystoma* (tiger salamanders)-D
  - (D) Family Leptodactylidae -Neotropical Frogs  
*Eleutherodactylus coqui* -Common Coqui or Coqui frog (D).
- (4) Class Agnatha -Jawless Fishes
  - (A) Family Petromyzontidae -Lampreys  
All nonnative species (D).
  - (5) Class Osteichthyes -Bony Fishes
    - (A) Family Percichthyidae -Temperate Basses
      - 1. *Morone americana* (White perch) (D).
      - 2. *Morone chrysops* (White bass) (D).
    - (B) Family Clupeidae -Herrings  
*Dorosoma cepedianum* (Gizzard shad) (D).
    - (C) Family Sciaenidae -Drums  
*Aplodinotus grunniens* (freshwater drum) (D).
    - (D) Family Characidae -Characins
      - 1. *Astyanax fasciatus* (Banded tetra) (D).
      - 2. All species of the genera *Serrasalmus*, *Serrasalmo*, *Pygocentrus*, *Taddeiella*, *Rooseveltiella*, and *Pygopristis* (Piranhas) (D).
      - 3. *Hoplias malabaricus* (Tiger fish) (D).
    - (E) Family Salmonidae -Trouts  
*Salmo salar* (Atlantic salmon) -Restricted in the Smith River watershed (D).
    - (F) Family Lepisosteidae -Gars  
All species (D).

(G) Family Amiidae -Bowfins  
All species (D).

(H) Family Poeciliidae -Livebearers  
*Belonesox belizanus* (Pike killifish) (D).

(I) Family Channidae -Snakeheads  
All species (D).

(J) Family Cyprinidae -Carps and Minnows  
1. *Leuciscus idus* (ide)(D).  
2. *Ctenopharyngodon idellus* (Grass carp) (D), except that permits may be issued to a person, organization or agency for possession of triploid grass carp, under conditions set forth in Section 238.6.  
3. *Hypophthalmichthys molitrix* (Silver carp) (D).  
4. *Aristichthys nobilis* (Bighead carp) (D).  
5. *Hypophthalmichthys harmandi* (Largescale Silver carp) (D).  
6. *Mylopharyngodon piceus* (Black carp) (D).

(K) Family Trichomycteridae (Pygidiidae) -Parasitic Catfishes.  
All species (D).

(L) Family Cetopsidae -Whalelike Catfishes.  
All species (D).

(M) Family Clariidae -Labyrinth Catfishes  
All species of the genera *Clarias*, *Dinotopterus*, and *Heterobranchus*(D).

(N) Family Heteropneustidae (Saccobranchidae) -Airsac Catfishes  
All species (D).

(O) Family Cichlidae -Cichlids  
1. *Tilapia sparrmani* (Banded Tilapia) (D).  
2. *Tilapia zilli* (Redbelly tilapia) (D), except permits may be issued to a person or agency for importation, transportation, or possession in the counties of San Bernardino, Los Angeles, Orange, Riverside, San Diego, and Imperial.  
3. *Tilapia aurea* (Blue tilapia) (D).  
4. *Tilapia nilotica* (Nile tilapia) (D).

(P) Family Anguillidae -Freshwater Eels.  
All species of genus *Anguilla*(D).

(Q) Family Esocidae -Pikes all species (D).

(R) Family Percidae -Perches  
1. *Perca flavescens* (Yellow perch) (D).  
2. *Stizostedion vitreum* (Walleye) (D).

(S) Family Catostomidae -Suckers  
All members of the genus *Ictiobus* (Buffalos) (D).

(T) Family Cyprinodontidae-Killifishes  
*Cyprinodon variegatus* (Sheepshead minnow) (D).

(U) Family Latidae -Lates perches  
*Lates calcarifer* (Barramundi also know as Barramundi perch or Silver barramundi) (D).

(6) Class Elasmobranchiomorphi -Cartilaginous Fishes  
(A) Family Carcharhinidae -Requiem Sharks  
All species of genus *Carcharhinus* (Freshwater sharks) (D).  
(B) Family Potamotrygonidae -River stingrays  
All species (D).

(7) Class Reptilia -Reptiles  
(A) Order Crocodilia -Crocodiles, Caimans, Alligators and Gavials  
All species (D).  
(B) Family Chelyridae -Snapping Turtles  
All species (D).  
(C) Family Elapidae -Cobras, Coral Snakes, Mambas, Kraits, etc.  
All species (D).  
(D) Family Viperidae -Adders and Vipers  
All species (D).



- (E) Family Crotalidae -Pit Vipers  
All species (D), except *Crotalus viridis* (Western rattlesnake), *Crotalus atrox* (Western diamondback rattlesnake), *Crotalus ruber* (red diamondback rattlesnake), *Crotalus scutulatus* (Mojave rattlesnake), *Crotalus mitchelli* (speckled rattlesnake) and *Crotalus cerastes* (Sidewinder) not restricted.
- (F) Family Colubridae -Colubrids  
1. *Dispholidus typus* (Boomslang) (D).  
2. *Theoltornis kitlandii* (Bird or vine snake) (D).  
3. All species of genus *Nerodia* (watersnakes) (D).
- (G) Family Helodermatidae  
1. *Heloderma suspectum suspectum* (reticulate Gila monster) (D).
- (8) Class Crustacea -Crustaceans  
(A) All species of Family Cambaridae -Crayfish, etc. (D), except *Procambarus clarkii* and *Orconectes virilis* not restricted.  
(B) All species of genus *Eriocheir* (D).
- (9) Class Gastropoda -Slugs, Snails  
(A) *Potamopyrgus antipodarum* (New Zealand mudsnail)  
(B) All nonnative species of slugs and land snails (D), except:  
1. *Rumina decollata* (decollate snail) in the counties of San Bernardino, Riverside, Imperial, Orange, San Diego, Los Angeles, Ventura, Kern, Fresno, Madera, Tulare and Santa Barbara not restricted with the concurrence of the appropriate county agricultural commissioners.  
2. *Helix aspersa* (brown garden snail) not prohibited.
- (C) *Pomacea canaliculata* (Channel Apple Snail) (D).  
(D) All species of genus *Haliotis* (Abalone) (D), except *Haliotis rufescens* (Red abalone), *Haliotis sorenseni* (White abalone), *Haliotis corrugate* (Pink abalone), *Haliotis fulgens* (Green abalone), *Haliotis cracherodii* (Black abalone), *Haliotis kamtschatkana* (Pinto abalone), *Haliotis walallensis* (Flat abalone) and *Haliotis assimilis* (Threaded abalone) are not restricted. 1. Note: Unpermitted nonnative abalone are determined to be detrimental to native populations, therefore the exemptions provided in Fish and Game Code subsection 2271(b) and subsection 236(b), Title 14, CCR, are not applicable.
- (10) Class Bivalvia-Bivalves  
All members of the genus *Dreissena* (zebra mussels) -(D).
- (11) Transgenic Aquatic Animals.  
Includes freshwater and marine fishes, invertebrates, crustaceans, mollusks, amphibians, and reptiles (D). Note: Unpermitted transgenic aquatic animals are determined to be detrimental to native wildlife, therefore the exemption provided for in Fish and Game Code Section 2150(e) is not applicable.

#### 671.1. Permits for Restricted Species

(a) General. It is unlawful for any person to import, export, transport, maintain, dispose of, or use for any purpose any animal restricted by Section 671 except as authorized in a permit issued by the department.

(1) Limited Scope. A permit issued pursuant to this Section 671.1 does not supersede any Federal, State, or local law regulating or prohibiting the animals or the activities authorized in the permit.

(2) Inspections. The department may approve an application prior to facilities being inspected and approved. A permit shall not be issued unless the applicant's facilities have been inspected and approved by the department or persons designated by the department.

The department may enter any facility at a reasonable hour, where restricted species are kept or may be kept to inspect animals, facilities, animal equipment, or to inspect, audit, or copy any permit, book or record required to be kept by these regulations or federal regulations relating to such species.

(3) Change of Address or Name. The permittee must notify the Department's License and Revenue Division, 3211 S Street, Sacramento, California 95816, in writing of any change of address or name related to the permit within fourteen (14) days of the change.

(4) Records. Any record, log, invoice, or other document required by this Section 671.1 shall be maintained by the permittee for at least three years from the date issued, and be made available to the department immediately upon demand.

(5) Transportation Records Required of Broker/Dealer. The permittee shall prepare and sign an invoice in duplicate prior to any animals leaving their facility. The invoice shall contain the name and address of the Broker/Dealer, a phone number where the Broker/Dealer and the consignee can be reached 24 hours, the name and address of the consignee, the date of the shipment, and the number and scientific name of each animal. The invoice shall accompany the animals being shipped. The consignee shall sign and date the invoice receipt of the shipment and retain a copy.

(6) Permits for Business. A person (as defined in Fish and Game Code Section 67) other than a natural person can qualify for and be issued a permit, only by employing at least one full time employee who possesses the requirements for obtaining a permit. The permittee must continue to employ such qualified persons as long as the animals are possessed in California.

(7) Financial Responsibility. The department may require an applicant for a nonresident permit to provide proof he/she will immediately cover all expenses incurred by the department for personnel, equipment, and facilities used to locate, capture, house, care for, and transport animals that escape or that are released or abandoned. The written proof must be in the form of an insurance bond or other financial guarantee payable to the department, local government agency, or entity contracting for the animals.

(8) Health Certificates. The department may require as a condition on any permit that restricted animals be approved for interstate shipment pursuant to applicable federal or state agency standards for diseases such as but not limited to tuberculosis, brucellosis, and pseudo rabies. Permit conditions may be more restrictive than federal standards.

(9) Transgenic Aquatic Animals. The department may issue permits for importation, possession, transportation or rearing of, or research on, transgenic aquatic animals pursuant to the following terms and conditions:

(A) All transgenic aquatic animals shall be held, raised, and transported in a closed-water system or in a system which treats effluent discharge from the facility with a disinfection system adequate to ensure against the inadvertent release of live animals. A closed-water system means that there is no discharge to waters of the state. Municipal treated sewage systems are not considered waters of the state. The Commission may grant an exception to subsection (a)(9)(A) of this regulation if it is determined that doing so shall not pose a significant risk to the waters or wildlife of the state.

(B) Access to facilities containing transgenic aquatic animals must be restricted through means determined to be adequate by the Department to assure against unauthorized removal of animals.

(C) Movement of live transgenic aquatic animals from facilities is prohibited unless specifically permitted by the Department.

(D) Release of transgenic aquatic animals or their progeny into waters of the state is prohibited.

(E) If transgenic aquatic animals are held with non-transgenic animals of the same species, all such animals that commingle with transgenic animals shall be treated as transgenic for the purposes of regulation and may not be introduced into waters of the state. Nontransgenic individuals that can be individually identified as nontransgenic may be exempt from this provision with prior department approval.

(F) In addition to any other penalty provided by law, any unauthorized release of transgenic aquatic animals or their progeny into the waters of the state may be subject to the penalties provided for under Fish and Game Code Sections 2125, 12007, and/or 12023.

(G) A university, college, governmental research agency or other bona fide scientific institution, as determined by the department, may apply for an expedited permit review under 671.1(b)(6) of this section by demonstrating that they meet or exceed the requirements stipulated in subsections (A) through (F) as part of a federal program or permit, for example, National Institute of Health guidelines administered by an Institutional Animal Care and Use Committee (IACUC). Such institutions shall have 120 calendar days from May 14, 2003 to submit supporting documentation for an initial permit.

(H) The Department shall provide written notice of the filing of all permit applications to any interested party who submits a written request for such notice. The Department shall consider all

written comments regarding a permit application that are received from any interested party prior to approval of that application. All approved applications shall be reviewed by the Fish and Game Commission during a regularly scheduled public meeting; and the Commission, following public comment, may deny the issuance of a permit if it finds that an applicant is or will be unable to meet all regulatory requirements for importation, transportation, possession, and confinement of transgenic aquatic animals.

(l) The regulations under subsection 671.1(a)(9) shall be reviewed by the Department and other interested parties no later than one year after their effective date of May 14, 2003. A summary of the review shall be reported to the Commission at a regularly scheduled meeting within 90 days of May 14, 2004.

(b) Permits and Fees. The following fees will be adjusted annually pursuant to Section 699, Title 14, CCR. The department may issue permits with the conditions it determines are necessary to protect native wildlife, agriculture interests, animal welfare, and/or human health and safety to:

(1) Animal Care. A person who is a resident and who has the demonstrated experience and ability to house an animal, and who legally possessed the animal in California prior to January 1992. The permittee may only possess and provide care for the animal(s) specifically listed on their department approved permit inventory. No other activity is authorized except that which is medically necessary for the care of the animal. The base permit fees for this activity in 1998 are \$34.75 for Welfare species and \$289.50 for Detrimental species.

(2) Exhibiting. A person who is a resident or nonresident who is in the business of exhibiting animals and who possesses the qualifications listed in 671.1(c)(1) to import, transport, and possess only those species listed on the department approved permit inventory for commercial exhibition purposes. The base permit fee for this activity in 1998 is \$289.50 for residents and \$579.00 for nonresidents.

(3) Single Event Breeding for Exhibitor. A person who is a resident and permitted pursuant to Section 671.1(b)(2) to conduct a one time, single breeding of an animal which is listed on the department approved permit inventory. The permit may be renewed annually, but only upon written verification by a veterinarian accredited by the U.S. Department of Agriculture (USDA) that the breeding authorized by the former permit was not successful. The base permit fee for this activity in 1998 is \$34.75.

(4) Breeding. A person who is a resident and who possesses the qualifications listed in Section 671.1(c)(1) to import, transport, and possess only those species listed on the department approved permit inventory for breeding, but only if the department determines the breeding will not result in unneeded or uncared for animals or the species is threatened or endangered. The base permit fee for this activity in 1998 is \$289.50.

(5) AZA. A person accredited by the American Association of Zoos and Aquariums (AZA) to import, transport, and possess only those species listed on the department approved permit inventory for breeding, exhibition, or for bona fide scientific or public health research. The base permit fee for this activity in 1998 is \$289.50.

(6) Research. A university, college, governmental research agency, or other bona fide scientific institution, as determined by the department, engaging in scientific or public health research to import, transport, and possess only those species listed on the department approved permit inventory for breeding, or for bona fide scientific or public health research. The base permit fee for this activity in 1998 is \$289.50.

(7) Broker/Dealer. A person who is a resident or nonresident to act as a broker or dealer in a transaction involving the buying and/or selling of restricted species, or who is the business of transporting restricted species within the state between permittees. The base permit fee for this activity in 1998 is \$289.50 for residents and \$579.00 for nonresidents.

(A) Special Restrictions.

(1) Minimum Caging Period. Animals may be kept in transport caging for a period not to exceed 48 hours. An additional 48 hours may be approved by an enforcing officer or a veterinarian accredited by the USDA.

(2) Nonresident Restriction. The nonresident dealer shall only transport animals between permittees authorized by this Section or between AZA accredited institutions and permittees or ship them out of state in compliance with Federal guidelines.

(8) Shelter. A person who is a resident, who possesses the qualifications listed in Section 671.1(c)(1), and who has a statement in writing signed by the department's regional manager verifying the need for a shelter or similar facility in the area, to transport and possess restricted species for humane purposes only. The base permit fee for this activity in 1998 is \$34.75. The permit fee may be waived upon recommendation of the regional manager when he/she determines it is in the best interest of the public, the animal, or the department to do so.

(A) Special Authorizations.

(1) A permittee may exhibit animals at its facility for fund-raising purposes.

(2) The department may authorize a permittee to import restricted species upon receipt of written verification that appropriate facilities outside of California were contacted and no housing was available, and that these specific animals would be euthanized if they cannot be imported into California.

(Note: Deer Farming Permits. See Section 676.)

(c) Qualifications, Application Fees, and Permit Information.

(1) Qualifications. Applicants shall be at least 18 years of age and possess at least two years, full-time, paid or volunteer, hands-on experience caring for restricted species at a facility(ies) engaged in a similar or directly related activity to the permit requested. Applicants shall have at least one year full-time hands-on professional experience working with prohibited species in the same family or closely related taxonomic family as each species being requested. Experience will be considered only for the periods the applicant was directly involved in and responsible for the animals while engaged in the activity requested on the permit. Applicants must be residents of California, except permits for an exhibiting permit or a broker/dealer permit may be issued to nonresidents.

Persons or facilities accredited by the American Association of Zoological Parks and Aquariums (AZA), universities, colleges, governmental research agencies or other bona fide scientific institutions, as determined by the department, engaging in scientific or public health research are exempt from meeting these qualifications.

(2) Application. Completed applications and all fees shall be submitted to the Department of Fish and Game, License and Revenue Branch, Sacramento (see Section 671.1(a)(3) above for address) for each permit, permit amendment, or renewal. Application fees are nonrefundable and are in addition to permit fees.

The following information and documents shall accompany an application for each permit, amendment, or renewal:

(A) An inventory of each animal requested including the common and scientific name, sex, and age of each animal;

(B) Written certification from a veterinarian accredited by the USDA, that he/she has observed each of the permittee's animals at least twice during the prior year, that the animals have been appropriately immunized and are being housed and cared for as required by law. The certification must be signed by the veterinarian and must include the veterinarian's printed name, address and license number. In the case of animals to be acquired by the permittee, the certification shall include the future dates the animals will be inspected by the veterinarian;

(C) A resume which provides the dates and description of the applicant's experience. The resume is required only when applying for the original permit or when applying to add new species to the inventory.

(D) A copy of current license or registration document required by the United States Department of Agriculture (USDA) and a copy of the most recent USDA facility inspection form completed for the facility.

(E) A letter of recommendation on letterhead stationery signed in ink by the owner or operator of a facility where the applicant gained his/her experience. The letter must provide the printed name of the owner or operator and detailed information regarding the quality and extent of the applicant's knowledge and experience related to the permit requested.

(F) Applicants for a breeding permit shall include a statement describing why the progeny are necessary. The statement must be in writing on letterhead stationery from a university, research facility, exhibitor, breeder, zoological garden or other authorized recipient. The statement must contain the printed name and be signed in ink by an official representative of the organization

providing the statement. The statement is required only with the original application and when applying to add new species to the breeding inventory.

(3) Term of Permit. Permits issued under the provisions of this Section 671.1 shall be valid for a term of one year from the date of issue.

(4) Denial. The department may deny the issuance of a permit if the conditions of Section 671.1(b) are not met, or the failure to comply with terms and conditions of a permit or the provisions of sections 671-671.6. Any person denied a permit under these regulations may request a hearing before the commission to show cause why their permit request should not be denied.

(5) Revocation. Any permit issued pursuant to these regulations may be canceled or suspended at any time by the commission for failure to comply with the terms and conditions of the permit or for failure to comply with sections 671-671.6, after notice and opportunity to be heard, or without a hearing upon conviction of a violation of these regulations by a court of competent jurisdiction.

(6) Fees. The following fees will be adjusted annually pursuant to Section 699, Title 14, CCR.

(A) Application. A nonrefundable application fee for new permit, amending or renewing existing permit: \$30.

(B) Inspection. The applicant shall pay \$100.00 for two inspections each year. If an inspection requires more than two hours, or additional inspections are required to verify corrections of facilities or for compliance with these regulations an additional \$25.00 per hour shall be charged. The inspection fee shall be waived if a person submits an annual statement from a veterinarian accredited by the USDA certifying that the animals have been inspected at least twice during the year, at six month intervals, and that the animals are being cared for and housed in accordance with applicable requirements in sections 671.2 through 671.4, Title 14, CCR. In the case of animals to be acquired, the inspection fee shall be waived if a veterinarian accredited by the USDA will certify that the facilities meet the minimum requirements of Section 671.2, Title 14, CCR, and that the animals will be inspected at least twice during the next year as required.

#### **671.6. Release of Animals Into the Wild**

(a) No person shall release into the wild without written permission of the commission any wild animal (as defined by Section 2116 of the Fish and Game Code), including domestically reared stocks of such animal, which:

- (1) is not native to California;
- (2) is found to be diseased, or there is reason to suspect may have the potential for disease;
- (3) may be genetically detrimental to agriculture or to native wildlife; or
- (4) has not been successfully introduced prior to 1955.

(b) no permission will be granted to any person to release to the wild state turkeys that have been domestically reared for propagation or hunting purposes, except as provided in subsection 600(i)(4) of these regulations. Only wild trapped turkeys trapped from the wild by the Department may be released into the wild.

(c) Every person who releases Barbary partridges, Turkish or Greek chukar partridges; French, Spanish or Arabian red-legged partridges; and/or bobwhite or coturnix quail into the wild shall have a valid permit signed by the director of the department before making such a release. Persons desiring to release such birds shall submit an application showing the number and sex of birds to be released, the location of the proposed release, and the proposed date of such release.

At the time of release of such birds, the department may require that they shall be banded by the permittee with appropriate bands furnished by the department. The department may require a report giving the age, sex and number of the individual birds released.

(d) Application for the introduction of all non-native birds or animals, except those birds cited in subsection 671.6(c), shall be made to the commission on forms supplied by the department.

#### **671.7. Permits for Aquaculture Purposes**

The Department of Fish and Game may issue permits for importation, possession, and transportation of aquatic animals listed in Section 671 for aquaculture purposes.

**699. Fees**

Pursuant to the provisions of section 1050 of the Fish and Game Code, and in compliance with the provisions of section 713 of said Code, the Department shall annually adjust the fees of all licenses, certificates, permits and license tags, or other entitlement required by regulations set forth in this title 14.

(a) Base Year. Unless otherwise specified by the Fish and Game Code, or regulations adopted pursuant thereto, the base year for establishment of fees shall be 1991, or the year in which the license, certificate, permit or license tag was established after 1991.

(b) Permit Fees: Unless otherwise provided in this title 14 or in the Fish and Game Code, the Department shall charge a fee of thirty dollars (\$30.00) for any permit issued pursuant to these regulations.

FORM A STATE OF CALIFORNIA DEPARTMENT OF FISH AND GAME APPLICATION FOR  
LEASE OF STATE WATER BOTTOMS FOR AQUACULTURE

Applicant Name: \_\_\_\_\_ Phone No. (    ) \_\_\_\_\_  
Address: \_\_\_\_\_  
Aquaculture Registration No \_\_\_\_\_ Expiration Date \_\_\_\_\_  
Species of plant or animals to be cultured: \_\_\_\_\_

Application is hereby made to the Fish and Game Commission of the State of California for a lease of State water bottoms in the area described in the attached exhibit entitled "Exhibit A-Legal Description", and as shown on the map attached hereto marked "Exhibit B". Each exhibit bears the name of this applicant. Such lease will be for the purpose of aquaculture involving the species designated above. In support of this application, the applicant hereby submits the following explanation of the type of operation and cultural practices to be employed:

- A. Purpose of operation - research and development or production
- B. Plan of development and proposed production schedule
- C. Type of cultural method(s) to be employed: bottom, long line, buoyed habitats, etc.
- D. Department of Health Services growing water classification: approved, conditionally approved, prohibited, restricted or unclassified

(Attach additional sheets for detailed explanation)

Date: \_\_\_\_\_ Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

(See instructions on the back)

**Instructions:**

1. Prepare application form in duplicate and send to Fish and Game Commission, 1416 Ninth Street, 13<sup>th</sup> Floor, Sacramento, California 95814.
2. Attach a legal description marked "Exhibit A" and a map in duplicate marked "Exhibit B" to the application. The name of the applicant should be clearly shown on both the legal description and the map. The map must reflect the legal description of the lease area in the application, must show the acreage (or square footage if less than one acre) and be in a form acceptable for recording in the county(ies) in which the requested lease is located. Ties to monuments of record, the scale of the drawing, and where available, high and low tide lines should be shown. The nearest public access should be shown or the route of proposed access to the lease area from the nearest public access to the lease area described.
3. The application must show the name of the applicant and indicate whether a single ownership, a partnership, or a corporation.
4. The application must be dated and signed below the name indicated. The title of the person(s) signing the application should be shown. If a single ownership, the title "Owner" should be shown. If a partnership, all the partners' names should be shown, and the application should be signed by at least one "general partner". If a corporation, the duly authorized "Corporation Officer(s)" must sign their title(s) shown.
5. Appropriate fee must accompany the application. The present law requires that \$500.00 be remitted with the application. Payment may be made by check or money order. Do not send cash in mailing the application to the State.
6. Assistance in completing and filing this application may be obtained from the Department of Fish and Game's Marine Region Marine Aquaculture Coordinator, 619 Second Street, Eureka , California 95501, or from Marine Resources region offices at 20 Lower Ragsdale Drive, Suite 100, Monterey, California 93940, or 4665 Lampson Avenue, Suite C, Los Alamitos, California 90720.



## **EXAMPLE "1"**

### **EXHIBIT A**

Legal description of the proposed water bottom lease for cultivation of bay mussel (*Mytilus* sp.) and Pacific oysters (*Crassostrea gigas*) by Bounding Main Sea Farms, Inc.

### **LOCATION**

In Tomales Bay, Marin County, State of California, starting from Bench Mark 9, located at approximately 38°08'45" North latitude, 122°42'45" West longitude on the Tomales Bay Quadrangle, Marin County, California, U.S. Department of the Interior Geological Survey 7.5 minute series topographic map; thence South 49° East 1,200 feet to the true point of beginning; thence South 45° East 500 feet; thence North 49° West 500 feet; thence South 49° West 440 feet to the beginning point.

Area: 5 acres, more or less.

## **EXAMPLE "2"**

### **EXHIBIT A**

Legal description of the proposed water bottom lease for cultivation of red abalone (*Haliotis rufescens*) by Tippicanos Abalone Farm, Inc.

### **LOCATION**

All that area lying offshore of Santa Rosa Island, Santa Barbara County, State of California, starting at the South Point Light located at the most southerly point of Santa Rosa Island, at coordinates approximately 53°50'20" North latitude, and 120°07'07" West longitude on U.S. Department of Commerce National Ocean Survey Chart No. 18727, thence on a bearing of 193° magnetic, 850 yards to the point of beginning; thence northwesterly 283° magnetic to 210 feet; thence southwesterly 193° magnetic 210 feet; thence southeasterly 103° magnetic 210 feet; thence northeasterly 13° magnetic 210 feet to the point of beginning.

AREA: 1 acre, more or less.



INSTRUCTIONS FOR COMPLETING THE AQUACULTURE REGISTRATION APPLICATION

Please allow 40 business days for processing application. Incomplete applications will be returned and could delay the issuance of your registration. Contact the Department of Fish and Game, License and Revenue Branch at (916) 928-5852 or SPU@dfg.ca.gov if you need additional information regarding aquaculture registration.

- 1. It is mandatory to complete all items.
- 2. Complete one application for each facility registered.
- 3. Sign and date the application.
- 4. Mail this application with a cashier's check, money order, personal or business check\*, or credit card\*\* authorization form with the appropriate fee to the Department of Fish and Game, License and Revenue Branch, 1740 N. Market Blvd., Sacramento, CA 95834 or apply in person. **DO NOT SEND CASH.**

**FOR NEW APPLICANTS:** New aquaculture registration fee is required for each company registering its facilities, regardless of the number of locations. Please allow an additional 30 business days for inspection of your facility. The Department will contact you to schedule an appointment.

**FOR RENEWALS:** Aquaculture registration fees are due on or before March 1, 2010. Renewal applications received after April 1, 2010 are delinquent and a penalty of \$62.75 will be assessed after the date the fees become delinquent.

At renewal, registered aquaculturists with gross annual revenues greater than \$25,000.00 during the previous calendar year are required to pay a surcharge fee in addition to the current year registration fee. Individuals who fail to pay the surcharge fee at the time of registration will be assessed a delinquency penalty in an amount equal to the surcharge fee.

NOTICE

**Disclosure Statement**—Under Fish and Game Code Sections 15000–15908 and Section 235, Title 14, of the CCR, the Department of Fish and Game is authorized to collect information from applicants to maintain a record of licensure. All information requested on this application is mandatory unless otherwise indicated. An applicant's name and city of residence may be provided to the public if requested. Other personal information submitted on this application may be released for law enforcement purposes, pursuant to court order, or for official natural resources management purposes.

A licensee may obtain a copy of his/her license records maintained by the Department by submitting a written request to the Custodian of Records, Department of Fish and Game, License and Revenue Branch, 1740 N. Market Blvd., Sacramento, CA 95834. All requests must include the requester's name, address, and telephone number.

PAYMENT POLICY

\* **Personal or business checks** will be accepted by the Department if name and address are imprinted on the check. Checks returned to the Department due to insufficient funds will render your registration invalid. The Department may also deny the issuance or renewal of any registration if a person has failed to reimburse the Department for the amount due. Any activity performed without a valid registration is a violation of the Fish and Game Code and therefore subject to enforcement action.

\*\* **Credit Cards**—Licenses, permits, tags, stamps, or registrations may be purchased with a Visa or MasterCard.

INSTRUCTIONS FOR PREPARING MAPS FOR FRESHWATER AQUACULTURE

- 1. Show or describe the point of diversion (i.e., the point at which water is to be taken from the stream or spring).
- 2. Show the location of the spring or stream, and give name.
- 3. Show location of the main ditch or pipeline and points where screened.
- 4. Indicate clearly the proposed place of use of the water. For ponds, show the number and location of each. (See example below.)

EXAMPLE

Township **25N** Range **1W** Section **6**  
**SE 1/4 of NW 1/4**  
**Mount Diablo** Base and meridian

Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Base and meridian

